

Television across Europe:
regulation, policy and independence
Lithuania

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List of Abbreviations

| | |
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| KT | Competition Council, <i>Konkurencijos tarybos</i> |
| LNK | <i>Laisvas Nepriklausomas Kanalas</i> |
| LR | Lithuanian Radio, <i>Lietuvos radijas</i> |
| LRT | Lithuanian National Radio and Television, <i>Lietuvos nacionalinis radijas ir televizija</i> |
| LRTC | Lithuanian Radio and Television Centre, <i>Radio ir televizijos centras</i> |
| LRTK | Lithuanian Radio and Television Commission, <i>Lietuvos radijo ir televizijos komisija</i> |
| LRTT | Council of Lithuanian Radio and Television, <i>Lietuvos radijo ir televizijos taryba</i> |
| LTV | Lithuanian Television, <i>Lietuvos televizija</i> |
| LŽLEK | Lithuanian Ethics Commission of Journalists and Publishers, <i>Lietuvos žurnalistų ir leidėjų etikos komisija</i> |
| NVTAT | National Consumer Rights Protection Board, <i>Nacionalinė vartotojų teisių apsaugos taryba</i> |
| RRT | Communications Regulatory Authority, <i>Ryšių reguliavimo tarnyba</i> |

1. EXECUTIVE SUMMARY

Television broadcasting in Lithuania has undergone fundamental changes and development since 1990. The former State television company has been transformed into a public broadcasting system that largely fulfils its democratic role. The commercial broadcasting sector has grown rapidly – three national terrestrial commercial companies compete among themselves and with the public broadcaster, and cable television is highly developed.

State regulation is carried out by two institutions – the Lithuanian Radio and Television Commission (LRTK), which regulates the activities of all radio and television broadcasters and rebroadcasters, and the Council of Lithuanian Radio and Television (LRTT), which only regulates public radio and television. Licensing procedures are governed by clear criteria and procedures. In addition, there is a strong emphasis on self-regulation through non-State bodies – the Lithuanian Ethics Commission of Journalists and Publishers, and the Code of Ethics for Journalists and Publishers. However, State regulation up to the end of 2004 suffered from a lack of overall monitoring activities, and self-regulation is still undermined by weak enforcement powers. Since 2004 things have started to improve, with the LRTK playing a pivotal role in the process. Regulators have shown strong resistance to attempts at direct interference in broadcasting by politicians.

Lithuanian National Radio and Television (LRT) has been fundamentally transformed since 1990, and to a large extent fulfils the role of a public broadcaster. Its management is independent, despite the fact that the domination of appointments to the LRTT by Parliament and the President creates potential for its politicisation. Programme guidelines and editorial standards provide a clear framework for LRT journalists, although their enforcement is questionable. LRT is funded mostly by State subsidies and advertising revenue. The main issue facing the broadcaster and the Government is if, and how, to change the system for funding LRT, given the Government's failure to introduce licence fees over the past decade. Currently, uncertainty over its funding appears to have led to a situation where it is, to some extent, sacrificing public service programming in order to boost ratings and advertising revenue.

Commercial broadcasting has grown rapidly during, and since, the 1990s, leading to a situation where three national terrestrial broadcasters compete on five channels – perhaps too many for a market the size of Lithuania. Regulation of the commercial broadcasting sector is highly liberal. Ownership of commercial channels has changed markedly in the last two years, with Lithuanian business groups acquiring two of the major commercial broadcasters from foreign investors. This development has for the first time raised cross-ownership as an issue that may require regulation. Commercial broadcasters are subject to the same provisions of the Law on Provision of Information to the Public (the main media law) and the Code of Ethics for Journalists and Publishers as the public broadcaster, but there are no internal guidelines, and commercial companies rely on good practice. Adherence to quota and other legal

requirements is adequate – with the exception of some advertising restrictions and the quota on European works – while supervision and enforcement by the LRTK has improved dramatically since 1994.

Lithuania has transposed into its legislation all the requirements of European standards, including the EU “Television without Frontiers” Directive (TWF Directive). Fulfilment of these standards is largely satisfactory, with the exception of some advertising restrictions – but these infringements can be expected to have decreased, following the strengthening of the legal enforcement framework and of the LRTK’s monitoring capacity in 2003.

Lithuania has not developed any Government or regulatory strategy for the development of new media. The cable industry is highly developed, while, by contrast, Internet penetration is quite low. Although six licences have been issued for digital broadcasting in Vilnius, digital broadcasting itself is at a very early stage, and there has been no study or analysis of the financial impact of transition or what State involvement might be needed.

2. CONTEXT

Television broadcasting in Lithuania has undergone fundamental changes and development since 1990. The former State television company has been transformed into a public broadcasting system that largely fulfils its democratic role. The commercial broadcasting sector has grown rapidly – three national terrestrial commercial companies compete among themselves and with the public broadcaster, and cable television is highly developed.

2.1 Background

Lithuanian broadcasting has undergone fundamental changes since the country regained its independence from the Soviet Union in 1990. From performing the role of a “transmission belt” for Soviet propaganda, State broadcasting was transformed into a public service broadcasting system, a process formally completed in 1996. Lithuania has pursued a liberal approach to broadcasting regulation, as laid out in the Law on Provision of Information to the Public (hereafter, the Mass Media Law), which was first introduced in 1996¹ and last amended in 2004.² Three national commercial broadcasters have been licensed since 1992. More unusually, Lithuania has shown a

¹ Law on Provision of Information to the Public, *Official Gazette*, 1996, No. 71-1706, (hereafter, Mass Media Law 1996).

² Law on Provision of Information to the Public, amendment of 2004, *Official Gazette*, 2004, No. 73-2515, (hereafter, Mass Media Law). Available in English at http://www.rtk.lt/downloads/PIP_20040501.doc (accessed 22 July 2005).

strong preference for self-regulation by broadcasters rather than regulation by authorities, and has strongly resisted any attempts at political interference in broadcasting.

2.2 Structure of the television sector

The market for television broadcasting in Lithuania is small by European standards. Lithuania had 3.43 million inhabitants in 2004, with ethnic Lithuanians composing approximately 80 per cent of the population, ethnic Russians 8 per cent, and ethnic Poles 7 per cent.³

Total net advertising spending in the television sector was LTL 109 million (or approximately €31.6 million) in 2003 and LTL 146 million (€42 million) in 2004.⁴ As shown below in Table 1, in 2004 television accounted for a 42 per cent share of total *net* advertising spending – compared to 43 per cent for newspapers and magazines – but its share of *gross* spending was 72 per cent, perhaps a result of larger advertising agency discounts for television commercials than for press advertisements.

Table 1. Share of media expenditure – breakdown by sector (2004)

| | Market share (per cent) | |
|------------------------------|-------------------------|-----------------------|
| | Gross media expenditure | Net media expenditure |
| Television | 72.3 | 41.6 |
| Daily press (all newspapers) | 15.7 | 30.6 |
| Magazines | 6.4 | 12.6 |
| Radio | 2.4 | 7.3 |
| Outdoor | 3.2 | 6.5 |
| Internet | – | 1.4 |
| Cinema | – | 0.04 |

Source: TNS Gallup⁵

Television penetration is almost 100 per cent, and cable television penetration is also significant. 93 per cent of households are equipped with at least one television set. Cable television has undergone rapid development. In 2003, 55 cable television networks were registered in Lithuania, covering 47 cities and towns. As shown below in

³ Information from the website of the Department of Statistics, available at <http://www.std.lt/web/main.php> (accessed 6 July 2005).

⁴ Throughout this report, the exchange rate used is €1 = 3.4528 Litass (LTL).

⁵ IP International Marketing Committee, *Television 2004. International Key Facts*, October 2004, p. 371, (hereafter, IP IMC, *Television Key Facts 2004*). Radio stations registered by TNS Gallup.

Table 2, in 2003 Lithuania had about 262,000 cable network subscribers, and cable television was watched by over half a million people, or approximately 15 per cent of the population. Cable television networks broadcast about 100 television channels from all over the world. Cable television also boosts the availability of the public broadcaster, as cable operators are obliged by law to retransmit one channel belonging to Lithuanian National Radio and Television (*Lietuvos nacionalinis radijas ir televizija* – LRT), and all other terrestrial channels that have national coverage. Last but not least, 38 per cent of households watch satellite television.

Table 2. Lithuanian population and television penetration (2002 and 2003)

| | 2002 | 2003 |
|--|-----------|-----------|
| Number of inhabitants | 3,475,000 | 3,445,700 |
| Number of households with at least one TV set | 1,306,060 | 1,331,046 |
| Percentage of households able to receive television programmes | 98 | 98 |
| Number of cable television subscribers | 260,000 | 262,000 |

Source: LRTK⁶

Lithuania has four national terrestrial television broadcasters: one public service broadcaster and three commercial broadcasters – LNK (*Laisvas Nepriklausomas Kanalas*), TV 3 and TV 4, each broadcasting one national channel. The public broadcaster, LRT, broadcasts two channels. Two of the commercial national terrestrial television stations also operate affiliated local channels covering the big cities. LNK broadcasts the local channel TV 1, while TV 3 broadcasts Tango TV.

Commercial television became profitable only around four to five years ago. Table 3 provides overall figures on the number of broadcasters in Lithuania since 2001. This data suggests that the television broadcasting market has stabilised, with no significant changes in the number of terrestrial or cable broadcasters.

⁶ Lithuanian Radio and Television Commission, *Radio and Television in Lithuania: Comprehensive Guide to the Broadcasting Sector*, (hereafter LRTK, *Comprehensive Guide to the Broadcasting Sector*), Vilnius 2004, p. 7.

Table 3. Number of broadcasters (2001–2003)

| | 2001 | 2002 | 2003 |
|--|------|------|------|
| Number of terrestrial television broadcasters (national and local) | 27 | 26 | 27 |
| Number of cable television operators | 56 | 55 | 55 |
| Number of MVDS (Multipoint Video Distribution System) | 3 | 3 | 4 |
| Number of radio broadcasters (national and local) | 31 | 38 | 41 |

Source: LRTK⁷

According to various surveys, the mass media remain among the most trusted institutions in the country. Since 1996 their trust ratings has never been lower than 50-60 per cent.⁸ According to surveys by the leading market research and public opinion companies, Vilmorus and Baltijos tyrimai, television has been, and remains, the most important source of information for Lithuanians.⁹

2.3 Market shares of the main players

Television broadcasting has grown rapidly over the past decade. In terms of market shares, the main trend has been the weakening of the public broadcaster, LRT, as commercial broadcasters have expanded.

LRT broadcasts two channels, LTV 1 and LTV 2. There are three national commercial terrestrial television stations – TV 3, established as Tele 3 in 1992, Laisvas Nepriklausomas Kanalas (LNK), established in 1995, and TV 4 (since the end of 2004, Baltijos TV), established in the early 1990s. Of these, two stations – TV 4 (Baltijos TV) and TV 3 – were established by American Lithuanians, who later sold the broadcasters to foreign investors from Poland and Sweden.

Until around 1996, LTV was the most-watched station in Lithuania. However, in 1995–1997 it suffered a number of setbacks, due to insufficient funding and attempts at political interference. These events, plus mismanagement, triggered a protracted crisis at the public broadcaster, and, as a result, at one point LTV became the least-watched channel. It recovered only in 2001–2002, when the new management

⁷ LRTK, *Lietuvos radijo ir televizijos komisijos 2004-ųjų metų ataskaita Lietuvos Respublikos Seimui, (Annual Report 2004)*, (hereafter, LRTK, *Annual Report 2004*), (accessed 5 August 2005), p. 3, available in Lithuanian at <http://www.rtk.lt/downloads/ATASKAITA.doc> (accessed 4 August 2005).

⁸ LRTK, *Annual Report 2004*, p. 2.

⁹ Public opinion companies: Baltijos tyrimai (www.balttyr.lt) and Vilmorus (www.vilmorus.lt).

rescheduled debts, cut costs and invested in programming. As shown below in Table 4, LTV recovered to reach third place in terms of audience share, although with only around half that of TV 3 or LNK.

Table 4. Audience shares of the main television channels – for adults aged 15+ (2002–2004)

| Channel | Audience share (per cent) | | |
|---------|---------------------------|------|----------|
| | 2002 | 2003 | May 2004 |
| LNK | 24.3 | 27.0 | 25.7 |
| TV 3 | 21.7 | 23.9 | 26.7 |
| LRT | 12.9 | 12.5 | 12.5 |
| TV 4 | 12.1 | 11.5 | 9.4 |
| Other | 29.0 | 25.1 | 25.7 |

Source: TNS Gallup¹⁰

Radio has also undergone major changes since the market was opened to commercial broadcasters. There is a wide variety of commercial radio stations. The main stations were established by local entrepreneurs in the early 1990s. These include M-1, M-1 Plus, Radiocentras, Lietus, Znad Wili, Pūkas, European Hit Radio and Žinių radijas. In some cases, consolidation of the radio sector has started. The major difference between the radio and television sectors is the position of the public broadcaster. In contrast to the situation in the television sector, the public broadcaster, Lithuanian Radio, continues to be the most popular radio channel.

3. GENERAL BROADCASTING REGULATION AND STRUCTURES

Lithuania has shown strong resistance to direct State regulation of broadcasting, and to any attempts at direct interference by politicians. State regulation is carried out by two institutions, the Radio and Television Commission of Lithuania (LRTK), which regulates the activities of all radio and television broadcasters and rebroadcasters, and the Council of Lithuanian Radio and Television (LRTT), which only regulates the public broadcaster. Licensing procedures are governed by clear criteria and procedures. In addition, a notable feature of regulation is the strong reliance on self-regulation,

¹⁰ IP IMC, *Television Key Facts 2004*, p. 368.

through the Ethics Commission of Journalists and Publishers, and the Code of Ethics for Journalists and Publishers.¹¹

3.1 The regulatory authorities for the television sector

Regulation of public and private broadcasting is separated in terms of legislation and regulatory institutions. The Mass Media Law regulates all mass media, including television. The specific legal framework for public service broadcasting is set out in the Law on Lithuanian Radio and Television (hereafter, Law on LRT), also effective from 1996.¹²

Broadcasting is regulated primarily by two institutions: the Lithuanian Radio and Television Commission (*Lietuvos radijo ir televizijos komisija* – LRTK) and the Council of Lithuanian Radio and Television (*Lietuvos radijo ir televizijos taryba* – LRTT), which is the governing body of the public broadcaster (see section 4.4).

Created to be the sole regulator of commercial audiovisual media, the LRTK has since mid-2004 regulated the activities of all radio and television broadcasters and rebroadcasters within the jurisdiction of the Republic of Lithuania. Both regulators are public institutions and are not subordinate to any State institution. The LRTT is appointed mainly by Parliament and the President, while the LRTK is appointed almost entirely by media organisations and other civil society organisations.

The Communications Regulatory Authority (RRT) is the State body responsible for ensuring the existence of fair and non-discriminatory conditions for operators of electronic communications networks and a number of other technical issues, including drafting the strategic plan for assignment of broadcasting frequencies jointly with the LRTK.¹³ The RRT also regulates both the fixed-line and mobile telecommunications sectors.

There are also State bodies dealing with issues concerning advertising: the National Consumer Rights Protection Board (NVTAT) and the Competition Council (KT). The former is subordinated to the Ministry of Justice, while the latter is an independent public authority. For example, the NVTAT issues decisions on whether advertisements are “surreptitious” or otherwise prohibited, while the Competition Council decides whether advertisements are misleading or “comparative”, which is also prohibited by law.

¹¹ *Lietuvos žurnalistų ir leidėjų etikos kodeksas*, (*Lithuanian Code of Ethics for Journalists and Publishers*), Danielius, SL 1368, Vilnius, 1996, (hereafter *Code of Ethics for Journalists and Publishers*). See also Annex 4 of this report.

¹² Law on Lithuanian Radio and Television, *Official Gazette*, 1996, No. 102-2319, amended 29 June 2000, *Official Gazette*, 2000, No. 58-1712, and 25 January 2001, *Official Gazette* No. IX-155, (hereafter, Law on LRT). Available in English at <http://www.lrt.lt/en/static.php?strid=27083&> (accessed 8 August 2005).

¹³ Mass Media Law, art. 49(1,2,4,5).

Finally, there are two organisations that perform the self-regulatory function of overseeing adherence to journalistic standards – the Ethics Commission of Journalists and Publishers, a non-State organisation composed mainly of representatives of media and other civil society organisations, and the Journalists’ Ethics Inspector, who is appointed by, and is accountable to, Parliament (see section 3.1.2).

3.1.1 The Lithuanian Radio and Television Commission (LRTK)

Established in 1996 under the Mass Media Law, the Lithuanian Radio and Television Commission (LRTK) is the sole regulator of commercial audiovisual media. According to the law, the Commission is an independent institution (accountable to Parliament) regulating and monitoring the activities of commercial radio and television broadcasters, and participating in the formation of audiovisual policy. In accordance with the latest amendment of the Mass Media Law in force since 1 May 2004, the Commission regulates the activities of *all* radio and television broadcasters and rebroadcasters within the jurisdiction of the Republic of Lithuania.¹⁴ It does not, however, regulate LRT’s public service remit or supervise the public broadcaster’s fulfilment of its remit; these duties are performed by the LRTT.

Specifically, the Commission performs the following main functions:¹⁵

- develops the radio and television broadcasting strategy and plans the issuance of broadcasting and retransmission licences, in cooperation with the Communications Regulatory Authority;
- supervises adherence by all broadcasters to the provisions of the Mass Media Law;
- announces tenders for the acquisition of broadcasting or rebroadcasting licences
- establishes the tender conditions and the terms of licensing;
- sets the registration fees for tender applicants and licence fees for winners;
- selects tender winners and grants licences;
- supervises fulfilment by commercial broadcasters of the conditions of their licences and their adherence to decisions adopted by the Commission.

The Commission consists of 13 members, appointed as follows:¹⁶

- one member appointed by the President of the Republic;

¹⁴ Mass Media Law, art. 48(1).

¹⁵ Mass Media Law, art. 49(1).

¹⁶ Mass Media Law, art. 48(4).

- three members appointed by Parliament on the proposal of the Parliamentary Committee of Education, Science and Culture;
- one member appointed by each of the following organisations: the Lithuanian Painters' Union, the Lithuanian Cinematographers' Union, the Lithuanian Composers' Union, the Lithuanian Writers' Union, the Lithuanian Theatre Union, the Lithuanian Journalists' Union, the Lithuanian Journalists' Society, the Lithuanian Congregation of Bishops and the Lithuanian Association of Periodicals Publishers.

Members of the Commission may not be members of Parliament or the Government, and may serve no more than two consecutive terms. Commission members cannot be recalled from office until their term expires, except in the case that they do any of the following: resign, fail to attend Commission meetings for more than four consecutive months without a valid excuse, are convicted by a final judgement, forfeit citizenship of the Republic of Lithuania, are determined by a court to be legally incapable of performing their function, are unable to perform their duties for health reasons, or bring the office of membership of the Commission into disrepute.¹⁷

The Commission is financed from the funds of the commercial broadcasters. All broadcasters earning income from commercial broadcasting activities – with the exception of the public broadcaster, LRT – must pay the Commission on a monthly basis 0.8 per cent of their incomes received from advertising, subscription fees and other commercial activities related to broadcasting and/or retransmission.¹⁸ If broadcasters fail to pay for three months after a deadline specified in writing by the Commission, such amounts are to be recovered in court.

The Commission submits an annual report to Parliament, and its meetings, records and decisions are made public. It also has its own website (www.rtk.lt) with key documents available both in both Lithuanian and English.

3.1.2 Self-regulation

In addition to the LRTK and the LRTT, the Mass Media Law of 1996 also established a system of self-regulation for all media organisations, consisting of the Lithuanian Ethics Commission of Journalists and Publishers, and the Journalists' Ethics Inspector. This approach is based on the idea that the State should delegate media regulation – and in particular the enforcement of ethical standards – to media organisations themselves.

The Ethics Commission of Journalists and Publishers is a media organisation that is financed by the Media Support Foundation (MSF). The MSF is not directly

¹⁷ Mass Media Law, art. 48(5).

¹⁸ Mass Media Law, art. 48(15).

subordinate to any authority. Its founders are 16 public organisations, including all major journalistic organisations, as well as the Ministries of Culture and Education.

The Ethics Commission comprises 12 members. One member is appointed for three-year terms by each of the following: the Lithuanian Centre for Human Rights, the Lithuanian Psychiatric Association, the Lithuanian Bishops' Conference, the Lithuanian Periodical Press Publishers' Association, the Lithuanian Radio and Television Association, the Lithuanian Cable Television Association, the Regional Television Association, the Lithuanian Journalists' Union, the Lithuanian Journalists' Society, the Lithuanian Centre of Journalism, Lithuanian National Radio and Television and the Lithuanian Chapter of the International Advertising Association.¹⁹ These organisations are chosen to represent the social spectrum of society. Although members of the Ethics Commission are nominated by the ruling bodies of these organisations, they are free to act independently.

The functions of the Ethics Commission are stipulated in the Mass Media Law.²⁰ The Ethics Commission deals with notifications and complaints submitted by individuals or legal entities concerning violations of journalists' and publishers' ethics. It investigates 150 to 170 complaints on average per year.

The mass media are obliged to publish decisions concerning them issued by the Ethics Commission. However, in practice violators rarely publish such decisions. Media outlets that ignore decisions of the Ethics Commission are not subject to any sanctions, and the Mass Media Law only stipulates that in such cases the decision of the Ethics Commission must be announced on Lithuanian Radio.²¹

The Journalists' Ethics Inspector is a State official appointed by Parliament to supervise enforcement of the provisions of the Mass Media Law, as well as the Law on the Protection of Minors Against Detrimental Effects of Public Information (see Section 4.5.2).²² The main functions of the Inspector are to do the following:²³

- investigate complaints by interested persons about violation in the mass media of their honour and dignity, or of their right to privacy;
- assess adherence to the Code of Ethics for Journalists and Publishers²⁴ (see Section 3.4);

¹⁹ Mass Media Law, art. 47(2).

²⁰ Mass Media Law, art. 47(4).

²¹ Mass Media Law, art. 47(8).

²² Law on the Protection of Minors against Detrimental Effects of Public Information, *Official Gazette* 2002, No. 9 – 1067, (hereafter Law on the Protection of Minors), available in English at http://www.aeforum.org/reg_env/lithuania_2.pdf (accessed 8 August 2005).

²³ Mass Media law, art. 51(1).

²⁴ *Code of Ethics for Journalists and Publishers*.

- cooperate with the EU and institutions analogous to the Inspector in other countries, and represent the Republic of Lithuania in international organisations;
- evaluate how the Mass Media Law is observed by journalists, and suggest and advise State institutions on necessary changes to relevant laws;
- monitor the implementation of the Law on the Protection of Minors and recommend necessary changes to the law;
- urge publishers and journalists to adopt new self-regulatory measures ensuring a higher degree of protection of minors against negative influences of the mass media;
- analyse developments in the mass media.

The Inspector is appointed by Parliament for a five-year term on the proposal of the Ethics Commission of Journalists and Publishers,²⁵ and must report to Parliament once a year.²⁶ His or her activities are financed directly from the State budget.

The Inspector may apply the following measures against media organisations that violate media laws or the Code of Ethics for Journalists and Publishers:²⁷

- warn the media organisation about observed violations of media laws and demand remedial action;
- require the media organisation to renounce information that they have published that is false and/or violates a person's honour and dignity or lawful interests, and/or to provide the affected person with the right to reply;
- appeal to the Ethics Commission of Journalists and Publishers (and other competent State institutions such as the LRTK or courts) concerning violations of media laws.

While the approach to ethical regulation adopted in Lithuania reduces the likelihood of interference by State authorities in media activities, it also contains deficiencies. In particular, the enforcement measures applied by the Ethics Inspector are effective only where media outlets voluntarily fulfil the Inspector's instructions, as the law contains no sanctions against media that fail to do so. For this reason, the Inspector is considered ineffective by many mass media experts.

²⁵ Mass Media Law, art. 50(2).

²⁶ Mass Media Law, art. 51(5)

²⁷ Mass Media Law, art. 51(2).

3.2 Licensing procedures

Under the Mass Media Law, radio and television broadcasters – with the exception of the public broadcaster, LRT – require a licence issued by the Lithuanian Radio and Television Commission (LRTK). For LRT, the Commission instead issues authorisations, which provide broadcasting rights equivalent to those granted by licences.²⁸

Licence allocation is regulated by the Rules on the Licensing of Broadcasting and Rebroadcasting Activities, which were approved by the Commission in 2001 and amended in 2004.²⁹

Licences are awarded by public tender. Broadcast licences and licences for rebroadcasting can be issued by the Commission without a tender in the following cases:³⁰

- for broadcasting and rebroadcasting programmes by a terrestrial television or radio station with a power level of up to 1W;
- to scientific or educational institutions for broadcasting educational and cultural programmes on a terrestrial television or radio station with a power level of up to 20W;
- for broadcasting and/or rebroadcasting programmes by cable television or wire radio networks;
- for broadcasting and/or rebroadcasting programmes by satellite;
- to the organisers of public events for broadcasting programmes about events with a maximum duration of 14 days by a terrestrial television or radio station with a power level up to 20W.

Each licence contains certain requirements established by the Commission and derived from the Mass Media Law. These requirements are listed in a model (standard) licence text issued by the Commission.³¹ The following information must be included in the text of the licence:

- the language and type of the programme service and its name;
- the duration of the programme service (hours per day);
- the structure and content of the programme service.

²⁸ Mass Media Law, art. 31(1,7).

²⁹ LRTK Resolution No. 112 on the approval of the rules on licensing of broadcasting and rebroadcasting activities of 1 December 2004, available in English at <http://www.rtk.lt/downloads/Rules.doc> (accessed 7 July 2005). This resolution replaced the previous version of the rules of 2 May 2001.

³⁰ Mass Media Law, art. 31(11).

³¹ The standard licence conditions are available in Lithuanian on the LRTK website at <http://www.rtk.lt/downloads/Licencijavimo%20taisykles.doc> (accessed 4 August 2005).

All broadcasters (including LRT) must announce the name of the station or retransmitted station at the end of every programme shorter than one hour, or at least once per hour during programmes whose length exceeds one hour. In addition, all broadcast licences must meet the following general requirements established by the Commission:³²

- the programme service must comply with Lithuanian law and the Code of Ethics for Journalists and Publishers, as well as international conventions signed by Lithuania;
- public information must be provided in a fair, accurate and unbiased way;
- good taste, decency and respect for public feelings must not be violated;
- programmes for minors should not harm their physical, moral or intellectual development – programmes that might do so must be broadcast after 23.00 and must contain information enabling parents to prevent their children from viewing such programmes, if they so wish;
- advertising should be recognisable as such and separated from other parts of programming;
- programme presenters must be fluent in the Lithuanian language.

For each specific tender, the Commission may set up other criteria, additional conditions and requirements, provided these not contradict to the law or the regulations of the Commission. Under the law, priority is to be given to stations that undertake to prepare original cultural, informative or educational series, or programmes that have not yet been broadcast by other stations in the projected reception area. Specific criteria are being established to require television stations to start broadcasting youth programmes and cover major cultural events. The programming requirements contained in the licences for each commercial broadcaster are described in Section 5.5.

The number of tenders held by the Commission, and of broadcast licences granted, is shown below in Table 5.

The Commission decides on the level of the broadcast licence fee. National television broadcasters pay a fee of approximately €4,400 for their licence, while the fee for local broadcasters can be reduced to a symbolic sum. The fees are paid to the Media Support Foundation (MSF), a public organisation created to support media projects promoting culture and education.³³ The MSF uses the money to fund cultural programming by the same broadcasters. These fees are in addition to the 0.8 per cent of commercial

³² The standard licence conditions are available in Lithuanian on the LRTK website at <http://www.rtk.lt/downloads/Licencijavimo%20taisykles.doc> (accessed 5 August 2005)

³³ Further information on the Media Support Foundation is available (in Lithuanian) on their website, at <http://srtrf.lms.lt> (accessed 22 July 2005).

broadcaster's annual income paid to the Commission that is used to cover its activities (see section 3.1.1).

3.3 Enforcement measures

Since amendments to the Code of Administrative Offences, passed in November 2000 and effective from May 2004, the Lithuanian Radio and Television Commission (LRTK) may implement the following measures against both public and commercial broadcasters:³⁴

- issue a warning;
- impose fines of between LTL 500 and 10,000 (approximately €140 to €3,000) on the most senior manager of a commercial broadcaster or the public broadcaster LRT.

Under the Mass Media Law, the Commission may suspend a broadcaster's licence for up to three months if the licensee seriously and gravely infringes the requirements of this law or the licence conditions, and specifically if the broadcaster does any of the following:³⁵

- disseminates information that may not be published under Article 20(1) of the law;
- infringes basic licence conditions and/or obligations concerning the broadcast (or rebroadcast), where an administrative penalty was imposed on the broadcaster for the same infringement several times during the previous 12 months;
- infringes legal provisions on the protection of minors against the detrimental effect of public information on their physical, mental or moral development, where an administrative penalty was imposed on the broadcaster for the same infringement several times during the previous 12 months;
- fails to pay the broadcast licence fee on time;
- does not pay the contributions specified in law for financing the activities of the Commission, where the broadcaster was reprimanded for the same infringement twice or more during the previous two years;
- has its right to use a radio frequency (channel) revoked by the Communications Regulatory Authority (RRT), and the RRT appeals to the Commission to suspend the licence.

³⁴ Code of Administrative Offences, *Official Gazette*, 2000, No. 111-3569, entered into force in May 2004.

³⁵ Mass Media Law, art. 31(14).

The Commission may revoke a broadcast licence entirely if the licensee does any of the following:³⁶

- relinquishes the licence;
- is liquidated or reorganised;
- does not broadcast for a period of more than two consecutive months or more than three months in one calendar year without the Commission's consent;
- does not commence broadcasting within the period specified in the licence;
- has submitted incorrect data when applying for the licence;
- fails to eliminate an infringement for which the licence has been suspended, or repeats the same infringement within 12 months after the licence suspension ends;
- broadcasts and/or rebroadcasts when its licence is suspended;
- undergoes a change in ownership (of a controlling stake), or has its control (management) transferred to another person or persons without the Commission's consent, or presents incorrect data in the request submitted;
- loses its right to use its frequency by the decision of the RRT, and the RRT appeals to the Commission to revoke the licence.

The Commission works in cooperation with the Ethics Inspector, and with other institutions, depending on the nature of possible violations: for example, in the case of broadcasting of hate speech or racial hatred, the Ethics Commission of Journalists and Publishers, or for cases of surreptitious advertising, the National Consumer Rights Protection Board. When the Commission, through its monitoring activities, notices a possible violation, it requests the institution responsible in the particular field to give its assessment. If the Commission concludes that a violation has occurred, it imposes sanctions as detailed above. It may also do this without requesting such an assessment.

In 2004, the Commission requested assessments of possible violations from the following institutions:

- Journalists' Ethics Inspector – four times;
- National Consumer Rights Protection Board – four times;
- Drug Control Council – once;
- Competition Council – once.

³⁶ Mass Media Law, art. 31(15).

During the first half of 2004, three broadcasters were fined approximately €100 each for breaches of their licence conditions. In June 2004, a fine of LTL 1,000 (approximately €300) was imposed on the LNK Director General for broadcasting violent scenes during the daytime. In the same month a fine was imposed on the TV 3 Director General on the same grounds.³⁷ The decision to impose these fines was based on the expert opinion of the Journalists' Ethics Inspector. In July 2004, a fine was imposed on the commercial Uzupio radijas radio station, for failing to preserve audio records for the established term. To date, however, no broadcast licence has ever been revoked for infringement of the law or of the licence conditions.

The Commission has considerably strengthened its administrative capacities since the end of 2004, especially through the creation of a Monitoring Department employing five analysts, which has been functioning from mid-2004. In combination with the powers provided by amendments to the Code of Administrative Offences, this has resulted in an apparent increase in enforcement activities. The Monitoring Department conducted 70 inspections relating to advertising and programme requirements, and issued eight warnings.³⁸ Since the end of 2004 the Commission has fined private broadcasters on six occasions and issued seven warnings, but to date, it has not fined the public broadcaster, LRT, under its new powers.

Table 5. Licensing and sanctioning activities of the Lithuanian Radio and Television Commission (LRTK) (2001–2003)

| | 2001 | 2002 | 2003 |
|---|------|------|------|
| Adopted decisions | 156 | 154 | 123 |
| Organised tenders | 36 | 34 | 19 |
| Issued licences | 25 | 40 | 21 |
| Extended licences | 9 | 11 | 15 |
| Licences issued to newly established broadcasters | 16 | 11 | 6 |
| Imposed penalties | 7 | 6 | 6 |
| Revoked licences (n.b. at broadcasters request) | 10 | 17 | 21 |

Source: LRTK³⁹

³⁷ Information regarding the decisions can be found on the LRTK website (www.rtk.lt).

³⁸ LRTK *Annual Report 2004*, p. 9.

³⁹ LRTK *Annual Report 2004*, p. 3.

3.4 Broadcasting independence

Both the Lithuanian Constitution and the Mass Media Law prohibit censorship of the mass media.⁴⁰ Any interference with a broadcaster's activities may take place only where they violate specific legal provisions, and only on the basis of a court decision.

The Lithuanian approach to regulation relies on two ways of guaranteeing the independence of the broadcasting industry from the State. First, the rules of composition of the LRTT (for the public broadcaster) and the LRTK (for all broadcasters under Lithuanian jurisdiction) are designed to guarantee the regulators' independence. Of course, if these rules are broken – for example, as in the process of appointing the Director General of the public broadcaster (see section 4.4) – the principle of independence might nonetheless suffer. Second, strong reliance is placed on self-regulation of journalistic standards and ethics. In practice, these institutional arrangements do appear to have upheld such independence. Since 1997, there have been no known attempts by Parliament or the Government to influence the activities of the Council, and there have been no such attempts at all in the case of the Commission (see sections 3.1 and 4.4).

Concerning broadcasters' independence from their owners, the situation is less clear, as there are no formal laws or internal rules to guarantee the independence of editorial staff from the owners of broadcasting outlets. In the absence of explicit and detailed provisions protecting editorial independence, the Code of Ethics for Journalists and Publishers plays a potentially crucial role. The Mass Media Law stipulates that journalists must adhere to the Code, and broadcasters' licence conditions also require broadcasters to adhere to it. However, this does not mean that its individual provisions are legally enforceable and can be sanctioned. The Code defines four main professional values as follows:

- truth, honesty, decency;
- independence and responsibility of journalism;
- protection of personal honour, dignity and privacy;
- good relations among journalists.

The full text of the Code of Ethics for Journalists and Publishers is provided in Annex 1 of this report. The Code may protect journalists from interference both by the State and by owners, as it provides clear standards by which journalists can defend their activities against such interference. For example, section 53 states that journalists should refuse any assignment given by the head of their company if such an assignment contradicts national laws, the journalist's ethics or his or her beliefs. However, there have been no examples of journalists invoking the Code to defend themselves against attempts at interference from State authorities, politicians or their own management.

⁴⁰ Lithuanian Constitution, *Official Gazette*, 1992, No. 33-1014, art. 44(1); Mass Media Law, art. 10(2)

In November 2004 a new draft of the Code – prepared by the Journalists' Ethics Inspector, the Ethics Commission of Journalists and Publishers, and the Lithuanian Journalist Union – was made public and is expected to be adopted by mid-2005. The main stated purpose of the new Code is to balance journalists' freedom and human rights (such as the right to privacy, and the protection of minors) in the area of mass media.⁴¹

Not only owners, but also editorial staff, insist that owners do not attempt to restrict editorial freedom. LNK Programme Director Laurynas Seskus argues that the station's owner strives for a return on his or her investment, rather than to influence information that is broadcast.⁴² According to Marius Jancius, the evening news anchor at TV 4 (since the end of 2004, Baltijos TV), any attempt by journalists, owners or managers to distort the news would be regarded as unacceptable.⁴³

Nonetheless, the fact remains that there are no specific documents to regulate editorial independence either at TV 4 (Baltijos TV) or the other commercial broadcasters. The absence of formal rules may be seen as a potential point of vulnerability. In addition, an increasing number of journalists work on the basis of external contracts rather than as full employees of broadcasters, which by depriving them of the legal protection provided to employees could make them more vulnerable to arbitrary decisions by owners.⁴⁴

In addition to independence from the State and owners, the Mass Media Law contains one provision designed to preserve the independence of broadcasting activities from commercial interests: sponsors are prohibited from exerting influence on the contents of information to be published or broadcast.⁴⁵

⁴¹ As stated in a letter from the Ethics Inspector to the heads of journalistic organisations, also received by the author of this report.

⁴² Interview with Laurynas Seskus, Programme Director, LNK, 11 July 2004, Vilnius.

⁴³ Interview with Marius Jancius, news anchorman, TV 4, 10 June 2004, Vilnius.

⁴⁴ L. Meškauskaitė, *Žiniasklaidos teisė*, (*Mass Media Law*), Legal Information Centre, Vilnius, 2004, p. 140.

⁴⁵ Mass Media Law, art. 40(2).

4. REGULATION AND MANAGEMENT OF PUBLIC SERVICE BROADCASTING

Lithuanian Radio and Television (LRT) has been fundamentally transformed since 1990, and to a large extent it now fulfils the role of a public service broadcaster. Its management is independent, despite the potential for politicisation of the composition of the Council of Lithuanian Radio and Television (LRTT). Programme guidelines and editorial standards provide a clear framework for LRT journalists, although their enforcement is questionable. The main issue facing the broadcaster and the Government is if, and how, to change the system for funding LRT, given the Government's failure to introduce licence fees over the past decade.

4.1 The public broadcasting system

Historically and legally, LRT is the successor of the Soviet-era Committee of Radio and Television.⁴⁶ The transformation of State television into a public service broadcasting system began with the decision of the Supreme Council of the Republic of Lithuania in May 1990 to transform the status of State television. It was formally completed in 1996 with the adoption of the Law on LRT and the Mass Media Law.

According to the Law on LRT, the broadcaster's tasks are as follows:⁴⁷

- collecting and disseminating information about Lithuania and the world;
- acquainting the public with the variety of European and world culture and the principles of modern civilisation;
- reinforcing the independence and democracy of the Republic of Lithuania;
- creating, nurturing and protecting the values of national culture;
- fostering tolerance, humanism and a culture of cooperation, thinking and language;
- strengthening public morality and civic awareness;
- developing the country's ecological culture.

LRT is under an obligation to give priority to programmes about national and global culture, and to informative and educational programmes.

⁴⁶ Information on LRT is available in English and Lithuanian on its website (www.lrt.lt)

⁴⁷ Law on LRT, art. 3(1).

4.2 Services

LRT broadcasts two channels, LTV 1 and LTV 2. LTV 1 is a generalist channel available to the whole population. LTV 2 was launched in 2003 and is available only in the larger cities – its programming principles are still under development; so far it has broadcast repeats of LTV news bulletins, and predominantly cultural programmes and old films from the 1960s and 1970s. Under the Law on LRT, priority “shall be accorded in LRT programmes to national culture, as well as informational, world culture, journalistic, analytical, educational and art broadcasts”.⁴⁸

Table 6. Domestic public broadcasting channels (2004)

| Channel | Launch | Diffusion | Technical penetration (per cent) | Language | hours/ week | Programming | Revenue |
|------------------|--------|-----------|----------------------------------|------------|-------------|----------------------|-------------|
| LTV 1 (national) | 1957 | T | 98 | Lithuanian | 126 | Generalist | Govt., Adv. |
| LTV 2 | 2003 | T, S | NA | Lithuanian | 40 | Educational, Culture | Govt. |

Abbreviations: T = Terrestrial, S = Satellite; Govt. = Government, Adv. = Advertising

Source: LRTK⁴⁹

By law, LRT has the right to record and broadcast, free of charge, the sittings of Parliament and the Government, and official State acts (for example the inauguration ceremony of the President), and to dispose of records of these events at its own discretion. In addition, it may broadcast reports of up to 90 seconds of an informative nature from all public, cultural and sports events, irrespective of the holder of the right to such events.⁵⁰

4.3 Funding

The Law on LRT states that LRT is financed from State subsidies, licence fees (not yet introduced), income from the transmission of radio and television broadcasts, advertising, publishing, and sponsorship from commercial and economic activity.⁵¹ The same law also stipulates that LRT carries out independent commercial, publishing, and “economic and financial” activities, and that State subsidies provided to the public broadcaster are defined in a separate item in the State budget.⁵²

⁴⁸ Law on LRT, art. 4(2).

⁴⁹ IP IMC, *Television Key Facts 2004*, p. 365.

⁵⁰ Law on LRT, art. 5.

⁵¹ Law on LRT, art. 15.

⁵² Law on LRT, art. 14.

Each year, the LRTT submits a request for the State subsidy to Parliament, which decides on the final amount given to LRT. The amount of the subsidy is first discussed in the Parliamentary Culture Committee, and only then goes for approval to a plenary session. There is no precise definition in the law on how the level of the State subsidy should be established. There have been no indications that Parliament has restricted funding to LRT on political grounds.

Table 7. Income of Lithuanian Radio and Lithuanian Television (2003 and 2004)

| | | 2003 | | | 2004 | |
|---------------------|------------------------|---------------------|-------------------|---------------------------|---------------------|-------------------|
| | | Total (LTL million) | Total (€ million) | Share of total (per cent) | Total (LTL million) | Total (€ million) |
| State subsidy | Total | 38.0 | 11.0 | 76 | NA | NA |
| | – for LTV | 26.6 | 7.7 | – | NA | NA |
| | – for Lithuanian Radio | 11.4 | 3.3 | – | NA | NA |
| Advertising revenue | Total | 11.5 | 3.3 | 23 | 17.7 | 5.1 |
| | – from television | 9.9 | 2.9 | – | 15.3 | 4.4 |
| | – from radio | 1.6 | 0.4 | – | 2.2 | 0.7 |
| Other | Total | 0.5 | 0.2 | 1 | NA | NA |
| Total | | 50 | 14.5 | 100 | NA | NA |

Source: data provided by LRTK⁵³

Detailed breakdowns of LRT's budget are currently not made publicly available. Parliament has recently deliberated on this issue, and plans to make it obligatory that, in future, LRT's annual reports will contain such information.

As shown in Table 7, LRT's total budget in 2003 was LTL 50 million (or approximately €14.5 million), of which the State subsidy accounted for 74 per cent and advertising revenues 23 per cent. LRT's total budget for 2004 is not yet available.

LRT is free to sell advertising in the same way as commercial broadcasters, with the exception that advertising is prohibited on State mourning days, during broadcasts of events of State importance and during children's programmes. There are no special provisions on restricting the amount of advertising for LRT, but LRT is prohibited from broadcasting teleshopping. Restrictions on advertising for commercial and public broadcasters are the same, and they derive from EU directives.⁵⁴

⁵³ Information provided during an interview with Nerijus Maliukevicius, LRTK Executive Director, 5 January 2005, Vilnius.

⁵⁴ Mass Media Law, art. 37, 39.

Commercial broadcasters have lobbied strongly for advertising on public television to be stopped, on the grounds that there is insufficient advertising revenue in such a small market to sustain four national broadcasters. There has been an ongoing debate since 1996 on introducing licence fees as an additional source of funding for the public broadcaster, or as something to replace the State subsidy. The introduction of licence fees is provided for in general terms in the Law on LRT, which states that such fees should be introduced and that LRT's increased incomes from such fees should be balanced by corresponding decreases in the State subsidy.⁵⁵ The law does not envisage any specific timetable for the change, however.

In addition, in 1996 Lithuania adopted a Council of Europe recommendation and, together with other European countries, assumed an obligation to support – and where needed establish – a secure financing structure that would provide public broadcasters with the means necessary to carry out their tasks.⁵⁶ Parliament estimated that the licence fee should be set at below LTL 4 (€1.15) per month, with reimbursement to be provided to those requiring social assistance. The estimate was calculated by dividing the overall amount assumed to be collected by the number of TV households, but has no official status.

However, no amendments to the Law on LRT have been initiated to introduce a licence fee. At the same time, LRT appears to have been under significant financial pressure, judging from its drive to attract advertising by placing mass entertainment programmes in prime time at the expense of public service mission programmes (see section 4.5).

4.4 Governance structures

4.4.1 Composition

The supreme governing body of the LRT is the Council of Lithuanian Radio and Television (LRTT). The Director General is the Head of the LRT Administration. Each subdivision is headed by a Director, who serves as a Deputy Director General.

According to the Law on LRT, the Council's main functions are as follows:⁵⁷

- formulating the overall LRT programming strategy and annually approving the composition of, and changes in, LRT programmes;
- approving the LRT statutes;

⁵⁵ Law on LRT, art. 14

⁵⁶ Council of Europe, Recommendation No. R (96) 10 of the Ministers of the Council of Europe on the guarantee of the independence of public service broadcasting, adopted by the Committee of Ministers on 11 September 1996 at the 573rd meeting of the Ministers' Deputies, Article V, available at <http://cm.coe.int/ta/rec/1996/96r10.html> (accessed 4 August 2005).

⁵⁷ Law on LRT, art. 9.

- supervising LRT's fulfilment of its tasks and legal obligations;
- deliberating on and approving the long-term and annual plans for LRT's activities;
- approving the annual budget of the LRT administration and reports on its implementation;
- discussing and approving the annual reports on LRT activities;
- approving the contracts of creative LRT employees working on fixed-term contracts, and employees hired by open competition;
- approving the results of tenders to purchase television programmes from independent producers;
- approving an Administrative Commission to discuss issues relating to LRT's economic and financial activities, and approving the Commission's regulations and composition.

The Council is also responsible for appointing the Director General and approving the appointment of the Directors of LRT subdivisions. According to the Law on LRT, the Council is responsible for establishing an open public competition for the post of Director General, appointing the Director General for a five-year term, and determining his or her salary. The Council stipulates the number of his or her deputies and, on the recommendation of the Director General, is responsible for appointing and dismissing them.⁵⁸

4.4.2 Appointments

The Council consists of 12 members appointed from the ranks of representatives of society, science and culture.

For the Council's first term of office, which began in 1996, when the Law on LRT was adopted, the members were appointed as follows:

- four members appointed by the President of the Republic – for a six-year term;
- four members appointed by Parliament, including two members from candidates recommended by opposition parties – for a four-year term;
- four members appointed by the Lithuanian Science Council, the Lithuanian Board of Education, the Lithuanian Association of Art Creators and the Lithuanian Congregation of Bishops – for a two-year term.

⁵⁸ Law on LRT, art. 9.

At the expiry of the initial terms, the institution that appointed or delegated each member appoints a new member for a six-year term. This is to ensure in future a staggered election of members, so that appointments do not coincide with the parliamentary electoral cycle.

The appointment of one third of the Council is delegated to civil society organisations, in order to diminish the possibility of Government interference in the internal affairs of the public service broadcaster. In theory, the appointment process still allows the composition of two thirds of its membership to be controlled by the ruling political forces. However, even members appointed by the President and Parliament must be “prominent individuals in the social, scientific and cultural spheres”,⁵⁹ thereby diminishing the scope for politicians to choose any individual that they like.

LRTT members cannot be members of Parliament, the Government or the LRTK, LRT employees or people who have business relations with the broadcasters. Council members can serve a maximum of two terms. Members do not receive a salary for their work. They are paid a fixed fee of €30 for attending council meetings, which comes from the budget of the LRT. There are approximately two or three meetings per month. A member of the Council cannot be recalled from office before the expiry of his or her term of office, unless the rules of appointment are changed or the member does any of the following:⁶⁰

- resigns;
- fails to participate in the Council’s work for over four months without a good reason;
- is found guilty by court decision of a criminal act;
- forfeits citizenship of the Republic of Lithuania.

According to the Law on LRT, the Director General may be relieved of his or her duties prior to the expiration of his term only if he or she has failed to carry out his or her duties properly and if at least two thirds of the entire Council vote for dismissal.⁶¹ However, in practice, experience indicates that it is almost impossible to dismiss the Director General for political reasons, even where the majority of Council members represent the ruling political forces.

The Council has strongly resisted attempts by politicians to interfere in its activities. The last such attempt took place in 1997, when the ruling party in the newly elected Parliament (Motherlands’ Union-Conservatives) made a bid to secure its favoured candidate, Arvydas Ilginis, to replace the incumbent LRT Director General, Vytautas Kvietkauskas. To this end, Parliament amended the Law on LRT, to change the

⁵⁹ Law on LRT, art. 9.

⁶⁰ Law on LRT, art.10.

⁶¹ Law on LRT, art.10.

composition of the Council, such that any new Council would fall in line with the wishes of the ruling majority, dismiss the old Director General and appoint a new one. The bill was passed, but it had to be signed by the President within ten days to become law. However, during these ten days, the old Council elected Kvietauskas as Director General. The President vetoed the new law, but the veto was overruled by Parliament.

When the law came into effect, Parliament elected a new Council, which appointed Ilginis as Director General. The case went to court, and after three months the court ruled in favour of the old Council. The Director General elected by the old Council, Kvietauskas, took over from Ilginis, but resigned shortly thereafter. A temporary Director General, Juozas Neverauskas, was appointed, but after a lengthy legal battle, Kvietauskas was reinstated. He again resigned, however, on the grounds that it would be impossible for him to work, and Ilginis was re-elected once more. During this period, when LRT was left without clear management, it fell to fourth place in the audience ratings and accumulated a considerable debt.

This saga served as a powerful precedent. Although there were more recent attempts by the then Chair of the Parliamentary Committee for Education, Science and Culture, Rolandas Pavilionis, to initiate various motions and/or legal amendments directed against the LRT Director General and the Council itself, this has never translated into any approved motion or legal amendment.

4.4.3 Sanctions that can be invoked against the public service broadcaster

Amendments to the Mass Media Law passed on 1 May 2004 gave the Radio and Television Commission of Lithuania (LRTK) the right to control and monitor the activities of LRT, with the exception of its fulfilment of its public service mission, and impose similar sanctions to those on commercial broadcasters (see section 3.3). Thus, for example, the LRTK monitors LRT's fulfilment of quota requirements and advertising requirements. However, the LRTK did not impose any sanctions on LRT in 2004.⁶²

4.5 Programme framework

According to the Law on LRT, public television is supposed to provide different programming from that of its commercial counterparts, reflecting its public service remit (see sections 4.1 and 4.5.2). However, in practice LRT has found itself caught between the objectives of boosting its ratings and providing high-quality programmes that are not oriented towards a mass audience. LRT's programming since 2002 appears to reflect a compromise between these two objectives. Although figures on programme output demonstrate a significant emphasis on information, public affairs and

⁶² LRTK *Annual Report 2004*, pp. 9–11.

educational programmes (see Table 13), LRT has often been criticised by intellectuals for airing high-quality programmes, such as, for example, the analytical interview programme *Be pykčio* (“Without Anger”), very late, while prime time is allocated to mass entertainment programmes – criticisms that LRT rejects.

While this compromise has not resolved LRT’s financial situation – and in particular the question of the public broadcaster’s funding in the long term – it has drawn strong criticism from certain media experts. For example, author Jurga Ivanauskaitė announced in mid-2005 that she would resign from the Board of LRT because of the lack of culture-oriented programmes on the public broadcaster.⁶³

4.5.1 Output

In 2003, LRT broadcast 18 hours of television per day on LTV 1. According to the programming department of LRT, the breakdown of programming by genre in 2004 on LTV 1 and LTV 2 combined was as follows: news bulletins, 26 per cent; analytical and current affairs, 11 per cent; educational programmes, 10 per cent; cultural events, 7 per cent; entertainment programmes, 11 per cent; sports programmes, 3 per cent; programmes for national and religious minorities, 3 per cent. The remainder was feature films, documentaries and soaps.⁶⁴

According to survey data of 2003 from TNS Gallup on LTV, the breakdown of programming by genre was as follows: news and information, 9.2 per cent; social and political, 15.6 per cent; sports, 2.2 per cent; children’s programmes, 9.8 per cent; entertainment, 12.2 per cent; cultural programmes, 22.4 per cent; films, 15.5 per cent; specialised programmes for farmers, aviation fans and other specific interests, 5.5 per cent; programmes for minorities, 4.3 per cent; religious programmes, 3.3 per cent.⁶⁵

According to a survey carried out by TNS Gallup in July 2004, LRT’s most popular television programmes are news and current affairs, specifically the late evening current affairs show *Spaudos klubas* (9 per cent audience share), the news programme *Panorama* (8 per cent) and the weekend news summary (7 per cent).⁶⁶

LRT has focused strongly on providing quality news and investigative programmes. However, commercial television broadcasters have improved dramatically in recent years. More and more investigative programmes are provided by independent producers and sold to commercial channels, who can afford to pay more.

⁶³ See, for example, a report from the website of the Lithuanian Union of Journalists, available at http://www.lzs.lt/about.php?id=763&type=news&page_menu=1 (accessed 4 August 2005).

⁶⁴ Information provided by the LRT Programming Department.

⁶⁵ According to survey data of 2003 from TNS Gallup, available at <http://www.tns-gallup.lt> (accessed 18 July 2005)

⁶⁶ According to a survey conducted by TNS Gallup in July 2004, available at <http://www.tns-gallup.lt> (accessed 18 July 2005).

Table A1 (in Annex 1) provides the breakdown of programme output of public and private TV stations. Although it does not provide enough information to facilitate a comparison of public channels with specific private channels, it does indicate some important differences, notably a much higher volume of entertainment programmes and films on the three private stations combined than on the two public stations combined.

4.5.2 Programme guidelines

Programme guideline requirements for LRT include both specific guidelines for LRT, because of its public service mission, and general guidelines that apply to all broadcasters.

In general, LRT programme guidelines are set by the Law on LRT. In practice, enforcement of those guidelines that concern LRT's public service mission is the responsibility of the LRTT, which it does this by determining how the budget of the company will be distributed. According to the Law on LRT, the LRTT decides on what percentage of funding will be spent on the various programme strands, such as information, current affairs or cultural programmes. The report of the LRTT (published on the LRT web page) states simply that the programming requirements of the LRT law were achieved in 2004, with no further explanation.⁶⁷

General programme guidelines for LRT are defined as follows:⁶⁸

- freedom of speech, creation and conscience;
- independence, objectivity, impartiality, justice, accuracy and honesty;
- respect for public interests, values and moral norms;
- respect for personal dignity, rights and privacy;
- comprehensiveness of information, personal responsibility;
- self-regulation;
- tolerance and diversity of opinions.

Both the Mass Media Law and the Code of Ethics for Journalists and Publishers oblige all journalists, including those in both public and commercial television broadcasters, to provide unbiased and accurate information. The Mass Media Law specifically states that “public information must be presented in the media fairly, accurately and in an

⁶⁷ LRT report, available in Lithuanian at <http://www.lrt.lt/lrt/static.php?strid=5129&> (accessed 5 August 2005)

⁶⁸ Law on LRT, art. 3.

unbiased manner”, and that journalists must observe the Code of Ethics for Journalists and Publishers.⁶⁹ The following provisions of the Code are particularly relevant:

- Journalists are prohibited from carrying out assignments from either public authorities or commercial structures or individuals, and must carry out only those assignments that were given by their editorial superior.
- A journalist is prohibited from accepting presents, paid journeys, paid holidays and other signs of benevolence that can have a negative impact on his/her independence. If in exceptional cases journalists travel for free on a work (service) trip, they must specify this fact in their work.
- Bonuses to journalists may be awarded exclusively by their own company, professional union or non-profit public organisations.

Despite the general obligation to observe the Code stated in the Mass Media Law, the individual provisions of the Code do not appear to be legally binding and sanctionable. A new draft of the Code has been prepared by journalists’ and publishers’ organisations, and it is expected that the new Code will be adopted in mid-2005 (see section 3.4). Although values such as mass media independence, objectivity and responsibility are of prime importance in the Code, the new draft focuses primarily on protecting human rights.

Under the Law on LRT, LRT must be guided by the principles of objectivity, democracy and impartiality, ensure freedom of speech and creative freedom, and reflect diverse opinions and convictions.⁷⁰ Human rights and dignity must be respected in the broadcasts, the principles of morality and ethics must not be violated, and biased political views may not prevail in programmes.

Commercial advertising may not be broadcast during informational (for example news) and educational programmes.⁷¹ LRT must provide time to candidates and political parties during presidential, parliamentary or municipal elections, in accordance with rules established by the relevant electoral laws.⁷²

Special provisions to protect minors from the negative influence of mass media in general and television in particular were developed prior to Lithuania’s accession to the EU. The Mass Media Law states that minors should be protected from violent and pornographic programmes or programmes that could damage their mental, physical or moral well-being: such programmes may be broadcast only between 23.00 and 06.00.⁷³

⁶⁹ Mass Media Law, art. 3(1), 44.

⁷⁰ Law on LRT, art. 3(1).

⁷¹ Law on LRT, art. 6(5).

⁷² Law on LRT, art. 5(8).

⁷³ Mass Media Law, art. 18.

The Law on the Protection of Minors against Detrimental Effects of Public Information gives powers to the Ethics Inspector to determine whether a specific programme damages the interests of minors, and to fine broadcasters who broadcast such material.⁷⁴ After the Ethics Inspector makes a decision, the LRTK implements it. The broadcaster can appeal to a court against such a decision.

In addition, broadcasters have voluntarily agreed to give television programmes special signs to indicate for which audience they are suitable: “S” for adult audience only, “N-14” for viewers above 14 years old, “N-7” for viewers above seven years old, and “T” for programmes that should be watched only with parental permission.

The Mass Media Law prohibits any media from spreading information that is false, slanderous or insulting, or that violates a person’s dignity and honour. Affected individuals may file a complaint to a court, which decides on the guilt of the media in question, and determines the penalty for violation, as well as the amount of damages to be paid to the individual.⁷⁵

The Mass Media Law also provides for the right to reply.⁷⁶ Persons may apply to the media outlet in question requesting a reply to information that they regard as false or of a defamatory nature. The outlet in question must publish a denial within two weeks. If the outlet rejects the request, the petitioner may appeal to a court.

With regard to advertising, broadcasters are subject to the following rules regarding content:

- Advertising and teleshopping must be fair and honest, may not be damaging to the interests of consumers or the development of minors, must not prejudice respect for human dignity (i.e. include any discrimination on grounds of race, sex or nationality), be offensive to religious or political beliefs, or encourage behaviour prejudicial to health and the protection of the environment.
- Advertisers do not have the right to exercise any influence over media content except for the content of their own advertisements.
- Surreptitious (hidden) advertising is prohibited.
- Television advertising and teleshopping may not use subliminal techniques.
- Advertising of tobacco products is prohibited, as is advertising of medicines or medical treatment available only on prescription. Advertising for other medicinal products or medical treatment with medicines must be readily recognisable and include warnings about possible harmful effects.

⁷⁴ Law on the Protection of Minors, art. 9(3).

⁷⁵ Mass Media Law, art. 13 and 14.

⁷⁶ Mass Media Law, art. 15.

- Persons who regularly host news programmes may not participate in or voice over advertising or teleshopping.
- Advertising and teleshopping broadcast in spots within a television programme must be readily recognisable as such and kept separate from other parts of the programme service by acoustic and/or optical means. Advertising and teleshopping spots must not prejudice the integrity and value of a programme.

4.5.3 Quotas

In line with the requirements of the TWF Directive, all broadcasters, including LRT, must do the following:⁷⁷

- reserve, where practical, at least 50 per cent of their programme time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping, for European works.
- reserve at least 10 per cent of programming (with the same exceptions) for European works produced by independent producers within the last five years.

LRT has consistently exceeded the quota for independent production, due to the fact that more than 80 per cent of programming (not including news and sport) has been outsourced.⁷⁸ In 2003, it also met the quota for European works (see Table 13 in section 6).

Lithuanian broadcasters are also subject to quantitative restrictions on advertising contained in the TWF Directive:⁷⁹

- Advertising shall not exceed 15 per cent of daily broadcasting time, or up to 20 per cent if all the time is allocated to teleshopping.
- The amount of spot advertising and/or teleshopping within a given one-hour period may not exceed 12 minutes;
- Teleshopping spots in programmes that are not exclusively devoted to teleshopping shall be of a minimum uninterrupted duration of 15 minutes. The

⁷⁷ EU “Television without Frontiers” Directive” Council Directive 89/552/EEC 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), OJ L 298, 17 October 1989, as amended by European Parliament Directive 97/36/EC of June 1997, OJ L 202 60, 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 30 June), (hereafter, TWF Directive).

⁷⁸ Mass Media Law, art. 38(3 and 4). Article 37 defines which works shall be considered as European audiovisual works.

⁷⁹ Mass Media Law, art. 39.

maximum number of teleshopping spots per day shall be eight, and their overall duration shall not exceed three hours per day.

- Films with a duration of more than 45 minutes may be interrupted by advertisements once for each period of 45 minutes, and a third spot is permitted if the duration of the programme is at least 20 minutes more than two complete 45-minute periods.
- For other types of broadcasts (series, serials, light entertainment programmes and documentaries), a period of at least 20 minutes must elapse between advertising breaks.
- Advertising may not be inserted in rebroadcast programmes.

4.6 Editorial standards

The most important document concerning editorial standards in both LRT and commercial broadcasters is the Code of Ethics for Journalists and Publishers. In addition, the LRT News Department has the following more specific programme guidelines:⁸⁰

- Impartiality is the essence of the activities of the News Department, pursued through sound judgement, common sense and respect for truth. Impartiality should not, however, mean neutrality with respect to democratic principles.
- News programmes should avoid reconstructing events; where reconstruction of an event is necessary, it must be done without distorting facts, and a title “reconstructed situation” must be displayed. Pictures drawn by a computer graphics specialist cannot be presented as real scenes.
- News must be accurate, and journalists and editors must verify facts. Not only facts must be true; language must be accurate and not distort facts in any way. It is recommended to refrain from exaggerations and evaluations.
- Journalists are prohibited from expressing their personal opinions in the news, and should be dispassionate, broadminded and well informed. News should allow viewers to form their own opinion. Journalists and editors must behave fairly to persons that are the subjects of news, and ensure their right to reply.
- The skin colour of ethnic minorities must be mentioned only in cases when it is indispensable. People of any sexual orientation must be respected, they must be treated fairly, and religious groups should not be discriminated against.
- It is prohibited to pay politicians for interviews.
- Swear words should only be broadcast in exceptional circumstances, and where this cannot be avoided should be broadcast on late news at 23.00.

There is no data available concerning violations of these standards or sanctions applied for violations.

⁸⁰ The guidelines are displayed internally, and are not otherwise publicly available.

5. REGULATION AND MANAGEMENT OF COMMERCIAL BROADCASTING

Commercial broadcasting has grown rapidly during and since the 1990s, to a situation where three terrestrial broadcasters compete on five main channels (three national and two local) – perhaps too many operators for a market the size of Lithuania to sustain. Regulation of the commercial broadcasting sector is very liberal. Ownership of commercial channels has changed markedly in the last two years, with Lithuanian business groups acquiring two of the commercial broadcasters from foreign investors; this development has for the first time raised cross-ownership as an issue that may require regulation. Broadcasters are subject to the same provisions of the Mass Media Law and the Code of Ethics for Journalists and Publishers as the public broadcaster. However, there are no internal guidelines, and commercial companies rely on good practice. Adherence to quota and other legal requirements appears to be adequate, with the exception of the quota on European works and some advertising restrictions. However, supervision and enforcement by the Lithuanian Radio and Television Commission (LRTK) could be further elaborated, and other institutions – such as the National Consumer Rights Protection Board, in charge of supervision over various aspects of television advertisement – should become more proactive in fulfilling their duties.

5.1 The commercial broadcasting system

There are three national commercial terrestrial television stations – LNK, TV 3 and TV 4 (Baltijos TV).

Table 8. National private domestic stations (2004)

| Channel | Launch | Technical Penetration (per cent) | Language | Hours /week | Programming | Revenue |
|--------------------|--------|----------------------------------|------------|-------------|-------------|---------|
| TV 3 | 1992 | 98.0 | Lithuanian | 126 | Generalist | Adv. |
| LNK | 1995 | 99.0 | Lithuanian | 127 | Generalist | Adv. |
| TV 4 (Baltijos TV) | 1993 | 88.0 | Lithuanian | 168 | Generalist | Adv. |

Source: Broadcasters, IP/RTL Group⁸¹

⁸¹ IP IMC, *Television Key Facts 2004*, p. 365.

LNK

LNK was established and began broadcasting in 1995, under the name of *Laisvas nepriklausomas kanalas* (LNK). Ownership of the station changed a number of times, and in late 2003 it was purchased from Swedish Bonnier entertainment by a local food, real estate and trading company, MG Baltic Investment. LNK also launched a second regional channel (TV 1) in 2003, covering the larger cities, largely broadcasting repeats from the main channel.

TV 3

TV 3 was first established under the name Tele 3 in 1992, and began broadcasting in 1993. After its owner was declared bankrupt in 1996, the broadcaster was bought by the Kinnevik company (Sweden) through its media holding Modern Times Group (MTG), which changed the station's name to TV 3 and transformed it to resemble other channels with the same name owned by MTG in Scandinavia and the other Baltic countries. Kinnevik is itself part of the VIASAT Broadcasting Group. Since 2002 TV 3 has also broadcast a youth entertainment channel, Tango TV, which is available only in larger cities

TV 4 (since January 2005 Baltijos TV)

TV 4 was established in the early 1990s as Baltijos TV, and was subsequently sold to Polsat Baltic, a subsidiary of the Polish broadcaster Polsat, which changed its name to TV 4. In 2004 it was purchased by Achema, a Lithuanian industrial group whose Chair is currently the President of the Lithuanian Industrialists' Confederation, and changed the name back to Baltijos televizija.

According to survey data of TNS Gallup from May 2004, TV 3 enjoyed the largest audience share, with 26.7 per cent, followed closely by LNK, with 25.7 per cent. TV 4 (Baltijos TV) lagged some way behind, with 9.4 per cent (see section 2.3). The main competitive struggle in the commercial broadcasting market is between LNK and TV 3.

There are nine regional commercial stations: six terrestrial, two satellite, and one both satellite and terrestrial. In addition, there are 21 local television stations.

Table 9. Regional private television stations (2004)

| Station | Launch | Technical penetration (per cent) | Language | Hours/week | Programming | Revenue |
|---------------------------------|--------|----------------------------------|------------------------|------------|-------------|--------------------|
| 11 KANALAS | 1996 | 24.9 | Lithuanian/ Russian | 84 | Generalist | Adv. |
| Vilnius TV (since 2005 TV 5) | 1994 | 22.0 | Lithuanian/ Russian | 112 | Generalist | Adv. |
| AR Televizija | 1998 | 11.5 | Lithuanian/ Russian | 70 | Generalist | Adv. |
| Klaipėdos Televizija | 1990 | 11.3 | Lithuanian/ Russian | 32 | Generalist | Adv. |
| Siauliai Televizija | 1992 | 6.8 | Lithuanian/ Russian | 70 | Generalist | Adv. |
| Vinita | 1993 | 5.7 | Multilingual | 168 | Generalist | Cable fee, Adv. |
| Balticum TV | 1989 | 4.7 | Multilingual | 168 | Generalist | Cable fee, Adv. |
| Tango TV | 2002 | NA | Lithuanian | 120 | Generalist | Adv. |
| TV 1 | 2003 | NA | Lithuanian | 78 | Generalist | Adv. |

Source: Lithuanian Cable Television Association, TV stations, IP/RTL Group⁸²

5.2 Services

There are no general public service obligations for commercial broadcasters. However, each television broadcaster signs a protocol as part of its licence agreement, which specifies its programme breakdown.

LNK, for example, is obliged to broadcast 124 hours of programmes per week, with specific requirements of breakdown, including 12 hours of news, one hour of programmes covering social, legal and artistic issues, 2.5 hours of entertainment programmes, 2.5 hours of documentaries on nature, science or history, and 0.5 hours of sports. Independent production has to occupy at least 15 per cent of broadcast time. At least 22 per cent of programming has to be produced in-house, and up to 32 per cent may be purchased from outside suppliers; repeats may account for up to 29 per cent of broadcasting time. Advertising may occupy a maximum of 8.5 per cent of airtime, and self-promotion 8 per cent. The other commercial broadcasters are subject to similar protocols.

⁸² IP IMC, *Television Key Facts 2004*, p. 365.

TV 3 is required under its licence to produce at least 22 per cent of programming in-house and purchase a maximum of 27 per cent externally, while repeats may account for a maximum of 36 per cent of programming time. The remainder may be filled by retransmission, advertising and self-promotion.

TV 4 (Baltijos TV) is subject to the following breakdown requirements: minimum 22 per cent in-house production; maximum 51 per cent purchased externally; maximum 37 per cent repeats; maximum 7 per cent on advertising and self-promotion.

According to the LRTK, these obligations are fulfilled by the commercial broadcasters.⁸³

5.3 Commercial television ownership and cross-ownership

So far the issue of media concentration or cross-ownership has not become a subject of discussion in Parliament or the Government.

There are no restrictions on ownership of broadcasters by foreign entities, except that such ownership must be through a legal entity established in Lithuania. Under the Mass Media Law, a media outlet may not be owned by a person whom a court has prohibited from carrying on such activities.⁸⁴ This provision may only be applied on a temporary basis and on the basis of criminal acts related to incitement of national, racial, religious or social hatred, violence and discrimination, defamation or disinformation. Political parties and political organisations are prohibited from owning a broadcaster, although they may own other types of media. State institutions (other than scientific and educational institutions), municipalities and banks may not own broadcasters.⁸⁵

There are no specific restrictions in media laws regarding concentration. Since the mass media sector was liberalised, the only regulation in this area has been the Competition Law. This law defines a “dominant position” as occurring where any company holds or plans through acquisitions to occupy more than a 40 per cent share of the broadcast market.⁸⁶ There has been no precedent of any broadcast company approaching a 40 per cent audience share. As of May 2004, TV 3 had the largest audience share, at 26.7 per cent (see Table 4).

There are also no restrictions on cross-ownership of media. The official explanation for this is that there have been no threats to media diversity or plurality of opinions. However, the issue of cross-ownership was put on the map in 2004 by the acquisitions of LNK and TV 4 by local business interests, in 2003 and 2004 respectively.

⁸³ Information provided during interview with Nerijus Maliukevicius, 10 January 2005, Vilnius.

⁸⁴ Mass Media Law, art. 47.

⁸⁵ Mass Media Law, art. 23.

⁸⁶ Law on Competition, 23 March 1999, *Official Gazette*, No. 8-1099, as amended on 15 April 2004, *Official Gazette*, No. 9-2126, art. 3(11), available in English at <http://www.konkuren.lt/english/misleading/legal.htm> (accessed 4 August 2005).

Specifically, the owner of LNK – MG Baltic Investment – also holds a controlling stake in ELTA, the second-largest news agency. The Achemos Group, the owner of TV 4, owns the third-largest daily newspaper, *Lietuvos Zinios*, and three radio stations, covering 28 per cent of the radio advertising market, in addition to its industrial holdings (the Achema Nitric fertiliser factory and the biggest sea freight company, Klasco). Modern Times Group (which owns TV 3) owns one radio station.

Table 10. Media holdings of owners of television broadcasters (2004)

| Owner | TV station | Other media holdings |
|---|-----------------------|---|
| MG Baltic Media (80 per cent) Amber Trust S.C.A. (20 per cent) | LNK | ELTA – news agency |
| Modern Times Group | TV 3, Tango TV | Power Hit Radio |
| Achemos Group | TV 4 (Baltijos TV) | Radio stations: Radiocentras, RC2, Ruskoje Radio Baltija Daily newspaper: <i>Lietuvos Zinios</i> Printing houses: Titnagas and Ausra |

Source: LRTK⁸⁷

5.4 Funding

The overall breakdown of income for all three broadcasters is not available. The only figure officially available is that for the total income of all commercial television broadcasters, which was LTL 108 million (€31.3 million) in 2003 (see Table 11). According to media reports, LNK's revenue in 2003 was approximately €15-17 million.

⁸⁷ LRTK *Annual Report 2004*, p. 16.

Table 11. Incomes of the commercial broadcasters (2001–2003)

| | | Total income (€ million) | | |
|------------------|---------------------------|--------------------------|-------|-------|
| | | 2001 | 2002 | 2003 |
| Cable television | LTL (million) | 46.6 | 48 | 50 |
| | € (million) ⁸⁸ | 13.5 | 13.9 | 14.5 |
| Radio | LTL (million) | 15.3 | 17.7 | 19.2 |
| | € (million) | 4.4 | 5.1 | 5.5 |
| Television | LTL (million) | 77.6 | 91.9 | 108.1 |
| | € (million) | 22.5 | 26.6 | 31.3 |
| MVDS | LTL (million) | 8.7 | 9.1 | 8.6 |
| | € (million) | 2.5 | 2.6 | 2.5 |
| Total | LTL (million) | 148.1 | 166.6 | 186 |
| | € (million) | 43.0 | 48.3 | 53.9 |

Source: LRTK⁸⁹

The main source of income of all commercial television stations is advertising. The total income from advertising for all television broadcasters was LTL 119,896,240 (€34.7 million) in 2003. The proportion of television advertising revenue in 2003 accounted for by each broadcaster according to figures provided by the LRTK is as shown in Table 12. According to data from TNS Gallup, however, TV 3 had almost 50 per cent of the television advertising market in 2003, while the shares for the other broadcasters were significantly different from LRTK figures.

⁸⁸ The Euro figures are approximate, calculated at €1=3.45 LTL (litas).

⁸⁹ For radio and television, see: LRTK, *Comprehensive Guide to the Broadcasting Sector*, p. 103. For Cable TV and MVDS, see: figures provided by Nerijus Maliukevicius, LRTK executive director.

Table 12. Gross television advertising revenue – breakdown by channel (2003)

| | Share of gross television advertising income (per cent) | |
|-------------------------------|---|--------------------|
| | Source: LRTK | Source: TNS Gallup |
| TV 3 | 42 | 48.5 |
| LNK | 39 | 26.4 |
| TV 4 (Baltijos TV) | 6 | 15.6 |
| LRT | 8 | 3.1 |
| Pervyi Baltiiskii Kanal (PBK) | – | 4.5 |
| Vilniaus TV | – | 1.2 |
| Tango TV | – | 0.7 |
| Other | 5 | – |
| Total | 100 | – |

Source: TNS Gallup⁹⁰ and LRTK⁹¹

There is a consensus amongst media experts that the advertising market is too small to sustain three commercial broadcasters, especially when the public broadcaster also sells advertising. As a result, competition is fierce and the channels often compete by charging dumping prices or by broadcasting more advertising than is permitted by law. Commercial television broadcasters have lobbied strongly for advertising to be disallowed on the public broadcaster (see section 4.3).

5.5 Programme framework

Commercial television stations broadcast a much higher proportion of entertainment programmes than LTV does (see section 4.5.1). Eight out of the top ten most-watched programmes in Lithuania in 2003 were broadcast by LNK and TV 3, and fell under the categories of entertainment, humour, movies, music and sports, plus a documentary on pop star Michael Jackson. LTV took the other two slots, in both cases broadcasts of the European Basketball Championship.⁹² American blockbusters and reality shows such as *Big Brother* dominate the top ten lists of the commercial television broadcasters. The five most popular films in 2003 were *Home Alone*, *Home Alone II*, *The Mummy*, *Home Alone III*, and *Titanic*.⁹³

⁹⁰ IP IMC, *Television Key Facts*, p. 371.

⁹¹ Information provided by Nerijus Maliukevicius, Executive Director, LRTK.

⁹² LRTK, *Radio and Television in Lithuania: Comprehensive Guide to the Broadcasting Sector*, p. 114, available at <http://www.rtk.lt/downloads/LRTK-en.pdf> (accessed 27 July 2005), (hereafter, LRTK, *Radio and Television in Lithuania*).

⁹³ LRTK, *Radio and Television in Lithuania*, p. 116.

However, at least two of the private stations – TV 3 and LNK – have strong news programmes and a number of quality current affairs and investigative programmes. The evening news programmes of TV 3 and LNK have more viewers than the main news programme of LTV, *Panorama*. Of the top ten talk shows on private channels, at least six address serious political and social issues, and three of these are broadcast by private stations.⁹⁴

5.5.1 Instruments

The provisions of the Mass Media Law and the Code of Ethics for Journalists and Publishers apply equally to journalists working for commercial broadcasters (see Section 5.4.2).

5.5.2 Quotas

There are no language or minority group quotas for commercial broadcasting. Around 15 per cent of the population are from ethnic minorities, and the vast majority of these are Russian- or Polish-speaking, which means that they are catered for by the Polish or Russian channels that are widely available on local cable networks. For example, Polish-speakers can watch TV Polonia (the satellite channel of public Polish Television) broadcast in Vilnius and the Vilnius region. For their part, Russian-speakers can see Russian news with local news inserted via satellite from Latvia on the Pervyi Baltiiskii Kanal (Baltic Channel One – PBK) channel, which is owned by the Russian State broadcaster, Pervyi Kanal.

Commercial broadcasters are subject to the same quotas on European works and independent production as the public broadcaster (see section 4.5.3). As Table 13 shows, commercial broadcasters fulfil independent production quotas, but both LNK and TV 3 failed to achieve the 50 per cent European works quota in 2003 – however, this does not constitute a violation of the law, as broadcasters are only under an obligation to fulfil the quotas “where practical” (see section 4.5.3).

5.6 Editorial standards

The Code of Ethics for Journalists and Publishers is the key instrument for setting out standards of editorial independence. In addition, most Lithuanian journalists have studied journalism in universities, where courses include lectures on professional ethics.

There are no explicit internal instruments in place in commercial broadcasting companies to ensure editorial independence, and there are no collective agreements containing clauses on editorial independence (see section 3.4). Commercial broadcasters therefore rely largely on good practice. Although commercial broadcasters

⁹⁴ LRTK, *Radio and Television in Lithuania*, p. 116.

and editorial staff insist that interference in editorial policy does not occur, or would be resisted as entirely unacceptable, the lack of such instruments may nonetheless be seen as a drawback.

6. EUROPEAN REGULATION

The Mass Media Law was amended in 2000, 2002 and 2004 to implement the requirements of the TWF Directive in the areas of jurisdiction, unrestricted reception, broadcasting of major events, quotas for European audiovisual works, quotas for independent producers, the right of reply, protection of minors and advertising rules.⁹⁵

All necessary provisions of the directive have been incorporated into national law (see section 4.5.3). However, as shown below in Table 13, presently not all commercial televisions fulfil all these requirements and quotas successfully.

Table 13. European works and independent production as a proportion of total programming of the national broadcasters (2003)

| Station | European works (per cent) | Independent production (per cent) |
|--------------------|------------------------------|---|
| LTV | 64 | 43 |
| LNK | 38 | 10 |
| TV 3 | 45 | 18 |
| TV 4 (Baltijos TV) | 52 | 32 |

Source: LRTK⁹⁶

Under the provisions incorporated into Lithuanian law, feature films or television films may be interrupted for advertising once in every 45-minute period, with the exception of those with a duration of less than 45 minutes. Critics claim that these provisions have often been violated and that the LRTK failed to enforce the restrictions. Likewise, broadcasters have effectively evaded the rule that news bulletins must be free of advertising by dividing news into three or four “separate” bulletins – the main news, sports, weather and crime news. There is no advertising in the main block, but advertising is displayed before and after the sports, weather, and crime news bulletins.

⁹⁵ Following its adoption in 1996 (*Official Gazette*, 1996, No. 71-1706), the Mass Media Law was amended in 2000 (*Official Gazette*, 2000, No. 75-2272), 2002 (*Official Gazette*, 2002, No. 68-2771) and 2004 (*Official Gazette*, 2004, No. 73-2515).

⁹⁶ LRTK *Annual Report 2004*, p. 16.

Television specialists are divided about whether these three blocks are part of the news and can therefore be sponsored or not.

It seems likely that the LRTK has been enforcing advertising restrictions more effectively, following the new powers afforded to it by amendments to the Code of Administrative Violations and its newly established monitoring capacity (see section 3.3).

7. THE IMPACT OF NEW TECHNOLOGIES AND SERVICES

Lithuania does not have a clear Government or regulatory strategy for new media. The cable industry is highly developed, while, by contrast, Internet penetration is quite low. Although licences have begun to be issued for digital broadcasting, digital broadcasting itself is at a very early, experimental stage, and no analysis of the financial impact of transition or of necessary State involvement currently exists.

7.1 New media

Lithuania does not have a clear and specific policy for the development of new broadcasting media. For example, the Mass Media Law does not make any mention of the Internet or of digital radio or television.

In more general terms, in October 1999, all parliamentary parties and associations signed the *Memorandum on the Development of the Information Society in Lithuania*.⁹⁷ This memorandum acknowledged the development of the information society as a strategic objective of Lithuania, and stated that the duty of the State is to prepare the legal framework for such a society. In a resolution passed in February 2001, the Government approved a programme of implementation measures for 2001–2004,⁹⁸ which provided for the creation of a separate item in the State budget to finance the development of the information society.

Of more relevance is a Government Decision of November 2004 on the introduction of digital television, which outlines the kind of model for the introduction of digital

⁹⁷ *Memorandum on the Development of the Information Society in Lithuania*, available at http://www.eu-esis.org/script/notice.cgi?fic=alt36.htm&repertoire=pages&name=Memorandum+on+the+Development+of+the+Information+Society+in+Lithuania+&zone=all&start_date_operator=later+than&start_date=&end_date_operator=before&end_date=&ACTION=All&CATEG=All&LEVEL=All&cappel=action&charset=Windows-1257 (accessed 5 August 2005).

⁹⁸ Government Resolution of February 2001, on the National Concept of the Information Society, 28 February 2001, *Official Gazette*, 2001 Nr.20-652.

television that will be applied in Lithuania.⁹⁹ This decision states the following timetable for the introduction of DVB-T (digital video broadcasting technology):

- By June 2006: to equip Vilnius with digital transmitters able to transmit at least 20 channels.
- By the end of 2007: to equip the five largest cities with digital transmitters, each able to broadcast at least 16 channels.
- By the beginning of 2009: to have at least one DVB-T network covering 95 per cent of the territory of the country.

The Ministry of Communication is responsible for implementing the decision, and the Ministry of Culture has been tasked with drafting a plan for the digitalisation of terrestrial television by 2008, to be approved by the Government. However, the Government decision does not provide any estimate of the likely cost of digitalisation, how the Government will contribute to the cost, or any specific commitment to action.

7.2 Market conditions

Cable

The cable industry is highly developed. The first cable companies were registered in 1990, and in 1994 the ten main operators, plus three equipment providers, founded the Lithuanian Cable Television Association.

Initially, cable television stations broadcast pirated products. Following the creation of a legal framework, cable operators had to obtain licences and conclude copyright agreements with programme producers. In 2001, 57 cable television networks were registered in Lithuania, covering 47 cities and towns and around 170,000 subscribers. Cable television networks broadcast around 100 channels from all over the world, and are watched by over half a million inhabitants.

Internet

Internet usage remains relatively limited in Lithuania. According to data from the Department of Statistics, approximately 30 per cent of the population use the Internet. Although 25 per cent of households have PCs, only 10 per cent of them are connected to the Internet. According to surveys conducted by the Department of Statistics, 41 per cent of companies use the Internet.¹⁰⁰

⁹⁹ Government Decision No. 1492 of 25 November 2004 on the Introduction of Digital TV in Lithuania, Official Gazette 2004, Nr.171-6336.

¹⁰⁰ Information from the website of the Department of Statistics, available in Latvian at: <http://www.std.lt/web/main.php?parent=176&module=628&id=954> (accessed 4 August 2005).

None of Lithuania's television channels is available for viewing on the Internet. However, there is an independent company that publishes on the Internet (www.tv.lt) the most popular programmes, including news programmes, of Baltijos TV (TV 4), LTV, TV 3, LNK, etc. It was established in 2000 and is part of the TV BALT company, owned by the Tilde informacinės technologijos company. In addition to Lithuanian, it narrowcasts Estonian and Latvian television programmes (www.tv.lv and www.tv.ee).

Digital television

Lithuania has not come up with a clear plan for digital television. For this reason, data on how much that might cost and when it is planned to take place is not available. Although a timetable for the introduction of DVBT has been agreed (see section 7.1), there has been no agreement concerning financing. Since September 2004, one digital transmitter in Vilnius has been broadcasting six channels (see below) in DVBT format, reaching Vilnius and its surroundings.

The Lithuanian Radio and Television Commission (LRTK) has begun issuing licences for digital broadcasting. The first licences were issued in 2004 to LNK and Balticum TV (a local station). In Vilnius, currently LNK broadcasts its own channel, plus TV 1 (a second channel available only in the big cities) channel, while Balticum TV broadcasts the "Balticum Auksinis" channel and rebroadcasts the "Viasat Explorer", "Viasat History" and "TV 1000" channels. In 2004, TV 1 broadcast an experimental programme, "Info TV", in public buses for one month. This was considered to be an experimental digital broadcast.

8. CONCLUSIONS

Lithuania has taken great strides towards the establishment and consolidation of a stable broadcasting sector, including a genuine public service broadcaster and a strongly competitive commercial sector. In short, broadcasting fulfils its role as a pillar of democracy in Lithuania. Nonetheless, significant problems remain.

As it relies on discretionary State subsidies, the public service broadcaster, Lithuanian Radio and Television (LRT), still lacks a clear system of financing that would guarantee its independence and the distinctive public service nature of its programming. This appears to have led to a situation where the public broadcaster has balanced fulfilment of its public service mission against attempts to maximise ratings in prime time, to the likely detriment of the former.

The Lithuanian approach to regulation is highly liberal on the one hand, yet strongly reliant on ethical standards on the other. To date, the result of this has been still inadequate monitoring and enforcement on the part of various institutions in charge. However, significant improvements in the monitoring and enforcement capacity of the

LRTK took place in 2004, which appear to be leading to more effective monitoring and enforcement.

The economic strength of the commercial broadcasting sector is questionable, given the existence of three national terrestrial broadcasters and the fact that the public broadcaster is allowed to sell advertising. This appears to have led to dumping practices and violation of some advertising restrictions in the past by both public and commercial broadcasters. Again, improvements in the legal framework for enforcement and the LRTK's monitoring capacity may have led to improvements in this area.

Lithuania lacks any specific legal provisions to prevent or limit concentration or cross-ownership in the broadcasting sector. This may become a problem if domestic business groups continue a strategy of acquisitions to build media empires.

There is no clear strategy for digitalisation. The Government has produced a rough schedule for the introduction of digital broadcasting, but this is not accompanied by any financial commitment or clear idea of how the transition will be carried out.

9. RECOMMENDATIONS

9.1 Media policy

Digitalisation

1. Parliament and the Government should develop and formulate a legislative framework and strategy for digital television.

9.2 Regulatory authorities

Monitoring

2. The Lithuanian Radio and Television Commission (LRTK) should continue more detailed monitoring of the broadcasting sector, and make its monitoring data available to the public.

Media Diversity

3. Parliament, in consultation with the Lithuanian Radio and Television Commission (LRTK), should introduce limitations on ownership concentration and media cross-ownership.

9.3 Public broadcasting

Funding

4. The Government should initiate reform of the system for financing Lithuanian Radio and Television (LRT) in order to ensure its stability and the independence of the public broadcaster. This could be achieved either by introducing licence fees as the main source of financing, or by introducing a longer-term system of State subsidies – for example, on a three- to five-year basis.
5. Parliament and the Government should, after the introduction of an alternative model of financing for LRT, consider banning or restricting advertising on LRT in order to ensure that the public service broadcaster is de-commercialised and its mission can be pursued fully.

9.4 Commercial broadcasting

Professional Ethics

6. Commercial broadcasters should consider the adoption of codes of ethics to put the independence of journalists from internal and external pressures on a stronger basis.

ANNEX 1. Table

**Table A1. Output of public and private television stations
– breakdown by genre (2003)**

| | Output (hours) | |
|-----------------------------|-------------------------------------|---|
| | Public television (LTV 1, LTV 2) | Commercial television (BTV, LNK, TV 3) |
| News | 1,095 | 2,083 |
| Current affairs/sports news | 484 | 1,453 |
| Other information | 611 | 630 |
| Educational | 6 | 51 |
| Culture | 159 | 375 |
| Religious | 54 | 266 |
| Advertising | 175 | 2,250 |
| Entertainment | 1,397 | 10,375 |
| Movies, soaps | 650 | 6,537 |
| Music | 457 | 845 |
| Sports | 213 | 467 |
| Other entertainment | 77 | 2,526 |
| Not classified | 887 | 2,454 |

Source: LRTK¹⁰¹

¹⁰¹ LRTK *Annual Report 2004*, p. 21.

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ANNEX 4. Code of Ethics for Journalists and Publishers

Adopted by the Lithuanian Journalist' Union, the Lithuanian Journalists' Association, the Lithuanian Periodical Press Publishers' Association, the Lithuanian Radio and Television Association, Lithuanian Radio and Television, and the Lithuanian Centre of Journalism on 25 March 1996.

I. Truth, Honesty, Decency

1. Neither publishers nor journalists shall have the right to consider that news is their own property. Organisers of public information should not consider information to be merchandise. The opportunity to receive and disseminate information is one of the major freedoms of the individual.
2. With respect to the human right to obtain fair information, a journalist shall propagate true and accurate news as well as a full range of opinions.
3. News shall be deemed to be the facts and data based on truth that might be established in accordance with appropriate means of verification and evidence.
4. Opinions shall be expressed by the journalist, as authorised by editorial staff, or any other individual publicising the notes and comments on general ideas and news. Nonetheless, since opinions tend to be inevitably subjective, the author has to ensure that an opinion should be presented honestly and fairly, without any distortion of facts or data.
5. News and opinions should be clearly identified as such.
6. With due respect to diversity of opinions, the journalist has to present as many opinions of impartial individuals as possible. This is particularly vital in cases when certain mass media address any urgent, vague or contradictory issues of life.
7. The journalist shall assess his/her information sources in a critical way, and scrutinise facts with due diligence on the grounds of at least several sources.
8. Journalists shall show solidarity in defence of a colleague from prosecution for criticism.
9. The journalist shall make every effort to gather information from all available sources, in order to be sure that the information is true, full and impartial.
10. Information shall be gathered in an ethical and lawful way.
11. On an individual's request for information, the journalist must identify himself/herself, specify the editorial staff and his/her position, and warn the individual that his/her words might be publicised, except in cases when officially inaccessible or confidential information is being gathered.

12. The journalist has no right to use pressure or offer any compensation in exchange for information to the source of information.
13. The journalist and publisher must assess any information obtained from an individual who is under stress or in shock, or who has found himself/herself in a helpless position, or who is communicating with a representative of public mass media for the first time, with particular care.
14. The journalist should not use audio and video recording means for direct citing if the individual providing the information opposes this, or if the individual is under stress or in shock, or has obvious physical defects.
15. The journalist should identify the source of his/her information. For this reason he/she must obtain permission to refer to the informant's name. If the source of information requests the journalist not to disclose his/her name, the journalist has no right to disclose it.
16. In preparing news for publication, the journalist has no right to supplement it with invented details, to distort it or omit material facts.
17. The journalist shall distinguish between news that is necessary for public knowledge and news that satisfies human curiosity.
18. Disputable or insignificant facts or events should not be presented as a sensation or as material matters.
19. Rumours and reports of anonymous informants should not be published, except in the case that the news is of vital importance for the public and shall be presented as unverified.
20. The journalist and publisher shall not violate human rights and dignity.
21. The journalist shall not humiliate or mock an individual's family name, race, nationality, religious convictions, age, sex or physical deficiencies, even in the case that such an individual has committed a crime.
22. Journalists shall not publish artificially deformed photographic arrangements, or false signatures under photographs, that might insult the portrayed individuals. The journalist shall not publish audio and visual arrangements that distort the ideas or facts of the informant. This provision shall not be applied to the publication of caricatures, cartoons or comic plots.
23. The journalist should not publish critical works, the arguments of which are based on the facts of their life, giving the impression that the journalist is settling an old personal score.
24. On quoting the speech of any individual, the journalist shall attempt to retain not only its essence but also the manner of speaking.

25. The mass media shall correct any mistakes and inaccuracies that they have made that might insult particular persons, as soon as the insulted individuals demand that they do so, without delay.
26. In the case that it becomes obvious that the information in any mass media contains false information, the information shall be corrected or erroneous statements retracted immediately, by publishing the corrections or retractions in an appropriate place in the next issue, radio or television programme
27. A criticised individual shall always have the right to justify himself/herself and to explain himself/herself. In the case of failure to provide such an opportunity, the public shall be informed of this.
28. It shall be necessary to announce the evaluations of the Ethics Commission of Journalists and Publishers.

II. Independence of Journalism and its Responsibility

29. The journalist shall not carry out assignments of any authorities, commercial structures or separate individuals, and shall be engaged only in the assignments given by the managers of the mass media.
30. The journalist shall not have the right to accept gifts, or travel free of charge, or go on vacations paid by somebody else, or receive any other signs of benevolence that might affect his/her independence. If, in exceptional cases, the journalist travels free of charge (on business matters), he/she should state this fact in his/her work.
31. The journalist cannot receive any fringe benefits from anybody, except his/her editorial board, a professional union and non-profit public organisations.
32. People have the right to know the owner of the mass media and his/her economic interests.
33. The journalist or publisher shall not use professional information for his/her personal benefit.
34. Mass media shall clearly distinguish commercials, advertising and ordered articles from the works of journalists.
35. It shall be forbidden to publish commercials by covering them with impartial information. The journalist shall not receive compensation for concealed advertising.
36. The journalist should consider if it is appropriate to use his/her name, image and voice for advertising, except in those cases when such advertising aims at humanitarian goals rather than commercial ones.

37. Not only mass media shall be free but their journalists shall also be free. They may and should refuse to perform an assignment given by a manager of editorial staff in the case that it contradicts national legislation, the ethics of journalists or the journalist's own personal convictions. The journalist has the right not to undersign his/her work in the case that it has undergone material changes without his/her consent, and this has resulted in distortion of the idea of the work and led to the emergence of ideas not belonging to the author.
38. The journalist shall have a professional qualification.

III. Protection of Personal Honour, Dignity and Privacy

39. The journalist shall not have the right to publish facts about an individual's private life without the latter's consent, except in the case that they are related to any high official and these facts are important to society, or criminal actions are being fixed.
40. The journalist shall comply with the presumption of innocence. Only the courts shall have the right to accuse an individual, or convict them in its enforced decision.
41. In the case that in the interest of society it is necessary to disclose the name of an individual who has been accused of having committed a crime and afterwards the fact of crime has not been proven, the journalist shall inform the readers or spectators of this immediately.
42. The journalist and publisher shall not publish groundless, unverified accusations.
43. The journalist should not publish the names of victims, particularly in the case of sexual aggression.
44. The journalist and publisher should consider if it is worth publicising the names of delinquents, even in the case that their guilt has been proven in a court of law.
45. It shall not be proper to publicise the names of individuals who have committed minor crimes and have been lightly punished, except in cases when such individuals are high officials.
46. The journalist should not remind the readers or spectators of an old crime committed by an individual who has served his/her sentence. This rule shall not apply to such an individual in the case of undoubted recidivism, or if such an individual continues work that was related to a serious crime that he/she has committed, and claims a high position in society.
47. The journalist should consider if it is worth publishing the facts about family scandals.

48. The journalist and publisher should not overdo those pictures of catastrophes, accidents or violence that might hurt the feelings of the relatives of the victims involved, as well as the sensitivity of readers and spectators.
49. The journalist should be particularly careful in publishing the facts about suicides or attempts to commit suicide, and avoid mentioning the family names.
50. On publishing private letters, the consent of the author of the letter and its addressee or their lawful inheritors shall be obtained.
51. The journalist shall not publicise medical information that has not been verified.
52. The journalist shall show particular respect to the rights of children and adults with any physical or mental incapacity.

IV. Relations among Journalists

53. In their business relations, journalists should maintain a balance between fair competition and professional solidarity.
54. The journalist should not impede his/her colleagues in gathering information, mislead them intentionally, or report on them to the authorities.
55. Neither individual journalists nor separate editorial staffs shall settle old scores with each other via mass media. Such behaviour does harm not only to their prestige but also to the prestige of their profession.
56. Plagiarism shall be deemed to be one of the most serious offences in the journalistic profession.
57. The journalist should identify the primary source of information in the case that he/she has referred in his/her work to facts used in any other author's work, even in the case that he has not quoted them but adapted the work of the colleague.
58. The journalist should not work in any concern within mass media that tolerates the principles of dishonourable journalism or unfair competition.
59. The journalist shall not write about any other individual or sign any work written by him/her.
60. The journalist shall not have the right to offer his/her work to any other mass media without agreement with the chiefs of editorial staff.
61. In the case that a freelance journalist offers the same work to several different editorial boards, he/she shall warn the latter about this.
62. The journalist shall keep in confidentiality the secrets of the editorial staff that are not related to violations of laws and the Code of Ethics.
63. The journalist shall protect his/her professional honour and prestige.