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Policies and the Case of Central Europe

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European Regulatory Policies and the Case of Central Europe

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In order to preserve a clear focus within this broad theme, the scope of the Forum was limited to four distinct but complementary themes, each of which had its own coordinator. Theme 1: 'The Idea and the Dynamics of the European Constitution' was coordinated by Professor Neil Walker; Theme 2: 'The 'East' Side of European Constitutionalism' was coordinated by Professor Wojciech Sadurski; Theme 3: 'The Constitutional Accommodation of Regional and Cultural Diversity' was coordinated by Professor Michael Keating; and Theme 4: 'The Market and Countervailing Social Values in the Constitution of Europe' was coordinated by Professor Martin Rhodes.

Abstract

In recent years, media pluralism has become the key theme of media policy debates both at the EU and national levels. This article examines normative grounds of media pluralism and considers different approaches to the issue. It also maps out regulatory concepts and responses at the level of EU institutions and outlines the main difficulties of regulatory implications stemming from the lack of a coherent approach. Finally, this contribution briefly studies to what extent the main problems affecting media pluralism in three Central European Member States (Poland, the Czech Republic and Slovakia) are addressed by national regulatory regimes and whether these provide sufficient framework, subsidiary and complementary to EU rules. It is argued, that media pluralism has to be evaluated in the light of strong requirements of pluralistic democracy, and not simply by reference to some fragmented criteria such as effective competition in media markets.

Keywords

Media pluralism, media diversity, media regulation, EU regulatory policies, Central European media landscapes, Poland, the Czech Republic, Slovakia.

Introduction

Media pluralism is one of the basic conditions for public sphere formation in contemporary democratic societies. In recent years, it has become the key theme of media policy debates both at the EU and national levels. Rapid changes affecting media landscapes have caused particularly insistent problems of organising and maintaining media pluralism for the new Central European EU Member States, whose media landscapes share specific features resulting from post-Communist transformations. The need to guarantee pluralistic communication structures, through which citizenship can be realised, is being redefined in the EU due to convergence. Current tendencies in media and informatics sectors are no longer compatible with traditional analytical, normative and regulatory frameworks, which have cemented for decades the division between the print media, broadcasting, informatics and telecommunications. Expansion of dominant media players through new forms of concentration, synergies and alliances have been extensively described as a new challenge to media pluralism across Europe, but also the globe.

The aim of this paper is to examine the very notion of media pluralism as an analytical tool, normative rationale and regulatory instrument. It will elaborate on limits and tensions between empirical, normative and regulatory implications of the phenomenon of media pluralism. It takes as a point of departure the following questions: How can pluralism be empirically practised by the media? In what sense, pluralism is institutionalised through the media, and how, in given conditions, can it function as a principle for practical action? It will be argued that an answer to these questions should be sought in thematizing and problematization of media pluralism from the perspective of a public sphere operating in democratic conditions, and in a trans-national and cross-media setting. Media pluralism has to be evaluated in the light of strong requirements of pluralistic, constitutional democracy, and not simply by reference to some isolated criterion such as whether or not healthy competition in media markets is guaranteed or protected.

The paper is divided into three sections. The first section examines normative grounds of media pluralism and considers different approaches to the issue. The second section aims to map out regulatory concepts and responses at the level of EU institutions—the European Commission and European Parliament. It outlines the main difficulties of regulatory implications stemming from the lack of a coherent approach. The third section briefly studies to what extent the main problems affecting media pluralism in three Central European Member States (Poland, Czech Republic and Slovakia) are addressed by national regulatory regimes and whether these provide sufficient framework, subsidiary and complementary to EU rules.

Normative Grounds

The notion of media pluralism is grounded in the concept of the public sphere. In its classical form, the public sphere was described by Jürgen Habermas (1995) as a societal space, where the exchange of information and views of common concern takes place so that public opinion can be formed to shape political will. This space, open to all citizens, can come into being whenever private individuals confer in an unrestricted fashion about matters of general interest. As the public sphere has become more and more separated from the public's physical presence and extended to the virtual presence of dispersed media audiences, mass media have evolved into central institutions facilitating public debates.

However, in the course of media research it has also become apparent that the audiences of media products cannot be simply identified with *the public*. Media products are individually consumed, and media performance aims to meet individual, not only public interests. Moreover, traditional separation between mass and individual communication, public production and individual use, is being replaced by functional distinctions. There is an abundant literature steering critique of mass media communication within the public sphere, towards sceptical ends. One of the most widely disputed

arguments has been raised by Neil Postman (1985), who claims that blurring the boundaries between news journalism, entertainment, public relations and advertising leads to citizens' inability to form political judgements. In a similar vein, Pierre Bourdieu (1998) described mechanism of television journalism as a process resulting in disenchantment with politics. Observations derived from media research have induced Thomas Meyer (2002) to maintain that a profound functional transformation of democracy in media societies touches not merely the level at which politics is portrayed or represented, but alters the political process itself in every one of its aspects. Thus, media democracy establishes a new political regime with its own rules, constraints, options, resources, channels of influence, and limitations.

We may obviously add more examples of critique that would question or point to the limits of a mass media role in institutionalisation of the public sphere. These are supported by research recognising the impact of ruinous competition on reduced content diversity (Van der Wurff et al., 2000), the influence of media owners on political decision making through editorial policy (Herman and Chomsky, 1988) and a symbiotic relationship between journalists and politicians (Gandy, 1982). Yet there can be no doubt that the mass media are central to the process of the public sphere formation. As such, the mass media provide infrastructure for public communication, which can be best safeguarded by freedom of speech and media pluralism. Plurality and variety are thus conditionally linked to the public sphere, where, as Hannah Arendt (1958: 57) observed, 'everything can be seen and heard by everybody.' Arendt (1958: 57) shared view that 'being seen and being heard by others' derives significance from the fact that each person can see and hear from a different perspective: 'Only where things can be seen by many in a variety of aspects without changing their identity, so that those who are gathered around them know they see sameness in utter diversity, can worldly reality truly and reliably appear.' (Arendt, 1958: 57) The notion of utter diversity, when applied to the media, would comprise plurality and variety of themes and voices brought to the public sphere, but also of displayed viewpoints, values and representations. Can, thus, 'utter diversity', as proceeded through the media, be identified with media pluralism?

In the broadest terms, media pluralism refers to the presence of a variety of media within the public sphere. Ideally, this variety is supposed to preserve both access to and choice of diverse opinions, voices and representations, in which citizens can recognise themselves. Yet, 'media' is an enormously complex term and 'public sphere' may be conceived both in national and trans-national constellations. The complexity of the mass media manifests itself in the number of categories and levels through which the term itself may be approached. These embrace the macro level of media systems, the meso level of media institutions and types, and the micro level of media content, practice and performance. It is the distinction between media institutions and content which provides the most broadly used conceptual framework for an operational definition of media pluralism. This frequently drawn distinction between external and internal pluralism is expressed in a number of policy documents, but explanations of the terms refer repeatedly to the formulation provided by the Council of Europe's Committee of Experts on Media Concentrations and Pluralism: 'media pluralism should be understood as diversity of media supply, reflected, for example, in the existence of a plurality of independent and autonomous media and a diversity of media contents available to the public.' (see Doyle, 2002: 12)

Using a different wording but the same distinction, the UK White Paper *A New Future for Communications* describes diversity as the range of different programmes and services available to viewers and listeners. Plurality, on the other hand, is seen to be about the choices viewers and listeners are offered between different providers of such services (Department of Trade and Industry, 2000). Hence, most authors equate external pluralism with diversity of autonomous media (ownership), while internal pluralism is seen as political and cultural diversity of content. The recent European Parliament *Report on the Risks of Violation, in the EU and especially in Italy, of Freedom of Expression and Information* (2004), reiterates after other commentators that 'political' pluralism is about the need, in the interests of democracy, for a range of political opinions and viewpoints to be expressed in the media. 'Cultural' pluralism is seen as the need for a variety of cultures, reflecting the diversity within society, to find expression in the media (European Parliament, 2004: 7-6; see also Doyle, 2002: 12). It

might be plausibly argued that ‘expression in the media’ can also be read as expression through the media. Thus, both cultural and political pluralism do not necessarily have to be seen as elements of internal pluralism, but as independent categories cutting across both external and internal pluralism. In that case, however, arguments may be raised that autonomous politically and culturally oriented media could hardly be seen as ‘independent’, therefore would rather belong to the advocacy than common domain of the public sphere.¹

There are two readings of the relationship between external and internal pluralism. The first sees this relationship as causal and direct. It makes a strong link between diversity of ownership and diversity of content, which in the practice of media operations cannot always be easily demonstrated. In the second approach, external and internal pluralism are perceived to be mutually exclusive, mainly within a given contemporary policy context. David Ward (2002: 32) suggests, for instance, that external pluralism is related to the private and commercial media sector, while internal pluralism is to be associated with the public one. The reason is that internal pluralism would require that media owners are obliged through legal instruments to provide for pluralism within their activities (Ward, 2002: 31). Traditionally, these requirements are linked to the public service broadcasting, enjoying a special status in exchange for its commitment to fulfil the public mission.

Both interpretations have certain limits. First, an analytical distinction between external and internal pluralism, as described above, reduces the notion of pluralism to two selected aspects (ownership and content), that have emerged in the context of national and European media policies. Second, in describing the relationship between the two elements, normative concerns are mixed with descriptive categories referring to empirical and factual phenomena. Let us begin to approach the concept of media pluralism from a slightly different angle. For this purpose we will first discuss the relationship between pluralism and diversity. Dietrich Westphal (2002) argues that the notion of diversity is characterised by its neutral and thus general meaning, whereas the notion of pluralism is related and confined primarily to the media. There are obvious limitations to this understanding. Without reference to the media, both notions have general and broad meaning, pluralism being a concept of political thought, moral philosophy, cultural studies, etc. When analysed in the context of the mass media, both diversity and pluralism are applicable, and thus, necessarily ‘confined’ to this area.

As Denis McQuail (1992: 144) points out, diversity may be understood as a broad principle, that can be fulfilled by the mass media in three ways: by reflecting differences in society (diversity as reflection); by giving access to different points of view (diversity as access); and by offering a wide range of choice (diversity as choice). Van der Wurff et al. (2000: 121-122) distinguish between reflective and open diversity in the media. Reflective media diversity is achieved when existing population preferences are *proportionally* reflected in the media. A criterion for open diversity, on the other hand, would be adopted when divergent preferences and opinions are *equally* represented in the media (Van der Wurff et al., 2000: 121-122). By and large, diversity as the circumstance or feature of being varied, may be divided into a number of categories so as to conceive different media levels and clarify conceptual distinctions. It would still, nonetheless, be primarily a general, neutral and descriptive, rather than an evaluative concept. Diversity can be understood with emphasis on both distinctiveness or interaction between the various elements it is comprised of.

In comparison, media pluralism is to be thought of rather as a condition conducive to interaction between the diverse opinions, views, representations of culture, society, politics, and regional identities, ultimately leading to articulation of issues of common concern. This is not to say that these

1 Peter Dahlgren distinguishes the common from an advocacy domain of the public sphere. The common domain would mostly be built from the dominant media, which ideally provide information, debate and opinion for all members of society. The advocacy domain, on the other hand, would consist partly of time and space made available within the mainstream media and partly of smaller ‘civic media’ from political parties, cultural organisations, interest groups, movements and networks. In terms of representation, the advocacy status of smaller, politically or culturally oriented media can mean that they will use alternative portrayals which may differ from the canons of professional journalism (see: Dahlgren, 1995: 156-159).

issues are perceived in uniform terms, but rather the other way around, that they are best understood in pluralistic terms. At the same time, media pluralism makes it possible not only to identify these problems but also to thematize them, and address possible solutions so that they may be processed by the political system within a particular public sphere (see Habermas, 1996: 359). Thus, media pluralism is a descriptive, and at the same time, evaluative concept. It offers a description of some conceptual and factual features relevant to mass media, but it also undertakes to evaluate these features on the basis of their contribution to democratic communication within the public sphere. It should be also mentioned in this respect that media pluralism itself is not seen as an unwelcome condition for the public sphere, but as a positive value.

I will suggest that media pluralism needs to be reassessed in a framework which aims to make sense of an overall balance between conceptual distinctions (internal, external) and the aspects to which these distinctions apply (media structure, media performance). Needless to say, the media do not operate in a policy vacuum, thus the four elements of the framework should be assessed against normative concerns and policy responses in the area of media pluralism.

Table 1: Framework for the Assessment of Media Pluralism

Media Pluralism	Structural	Performance-Related (content and delivery to audiences)	Normative
External	<ul style="list-style-type: none"> • ownership structure • concentration of ownership • local and regional media structure • access (market entry and creation of new media outlets) 	<ul style="list-style-type: none"> • media types and profiles • specialised and minority media • thematic media 	<ul style="list-style-type: none"> • legal measures • regulatory policies at the level of media systems
Internal	<ul style="list-style-type: none"> • editorial independence • employment strategies • production strategies (information sources, content production and recycling, etc.) 	<ul style="list-style-type: none"> • geographical coverage • political coverage • cultural representations • originally produced contents 	<ul style="list-style-type: none"> • media content regulation • internal codes of conduct • in-house agreements

European Regulatory Policies in the Area of Media Pluralism

Referring to various regulatory examples, Dennis McQuail (1992: 142) points out that the terms diversity and pluralism as applied to mass media conceal differences of emphasis and of application from one national media system to another. A common regulatory model aiming at securing media pluralism has not been established at the European level, but there is growing consensus that media diversity can properly be addressed at this level. This consensus has been articulated through highlighting the importance of media pluralism for the nature of the European media landscape, and by efforts to formulate a common regulatory approach (mainly initiated by the European Parliament).

The drafting of EU's Constitution has provided an opportunity to re-dress a concern for media pluralism in a new constellation. The provision of the Constitution relating to media pluralism underwent several drafts during the work of the European Convention. At the very beginning, there was no intention to include a separate 'media pluralism' provision. One of the first drafts of a second paragraph of Article 11, however, contained a clause under which 'freedom of media' and 'pluralism' were to be 'guaranteed' (see Westphal, 2002: 486). This formulation was later changed in favour of a weaker wording, ultimately stipulating that 'The freedom and pluralism of the media shall be respected.' (European Convention, 2003: 50) Hence, unlike Article 10 ECHR, this Article II-11 (2)

refers explicitly to freedom and pluralism of the media, but given its faint wording doubt remains whether it will provide the EU with competence to regulate this matter. Forthcoming national ratification procedures concerning the Constitution do not allow us to further explore the possible policy implications. Instead, let us turn back to description of European policy initiatives to directly or indirectly regulate media pluralism as these have developed within the European Commission, European Parliament and professional media-oriented pan-European organisations.

Protection of media pluralism and diversity as such has been primarily perceived as a legitimate goal of national media policies (see Commission of the European Communities, 1994). A majority of European countries have enshrined weaker or stronger domestic policy measures to safeguard or promote media pluralism (Council of Europe, 1996). The domestic regulations however differ from country to country, also in terms of addressing the issue of pluralism in a comprehensive pattern or through scattered regulatory measures (anti-concentration provisions, media subsidies, etc.). Despite growing Europeanization of media policies (Harcourt, 2002), there has been no successful attempt at the level of European Union to harmonize regulations concerning media pluralism. In 1992, at the request of the European Parliament, the European Commission published a Green Paper: *Pluralism and Media Concentration in the Internal Market*. Its main purpose was to assess the need for Community action on the question of concentration in the media (television, radio, press) and to evaluate different approaches to be potentially adopted by the Commission after consultation of the parties concerned (Commission of the European Communities, 1992: 7). It is worthwhile to mention in this respect that the European Parliament in its *Resolution on Media Concentration and Diversity of Opinions* (1992) called for a coherent media pluralism regulation to be designed at the EU level. The outlined scheme included such proposals as: the drafting of a charter for European non-profit-making broadcasting organisations; a proposal for effective measures to combat or restrict concentration in the media; the protection and safeguarding of Europe's cultural heritage and cultural output; the regulation of short reporting on events of general interest; a Commission proposal for a European framework Directive safeguarding journalistic and editorial independence in all media; the formulation of a Media Code designed to maintain professional ethics and the establishment of an independent European Media Council (European Parliament, 1992).

The results of the consultation process after the 1992 Green Paper reaffirmed divergent standpoints of involved bodies. The European Parliament, the Economic and Social Committee, the journalists' federations and the trade unions emphasized that the need to safeguard media pluralism as such justified action at the EU level. In the opinion of these bodies, there was a risk that pluralism of media may be affected, in particular, by media concentration and cross-ownership (Commission of the European Communities, 1994: 15-16). Media industry representatives also supported the need for action, but based on a different rationale. This was expressed as the need to cope with globalisation and the impact of new technologies (Commission of the European Communities, 1994: 13). Weighing the divergent positions, the Commission concluded that an initiative on media ownership might prove necessary. This would provide both a maximum of legal certainty for investors in the media sector and a safety net preventing concentrations which represent a threat to pluralism and which cannot be dealt with under conventional competition-law rules (Commission of the European Communities, 1994: 6).

A second round of consultations resulted in circulation of a discussion paper prepared by DG Internal Market, proposing a possible 1996 draft directive on media pluralism. In the course of discussions, the document's focus was modified from 'Concentrations and Pluralism' to 'Media Ownership' in the Internal Market. Gillian Doyle (2002: 164) points out that this signalled a move to deflect the focus from pluralism (where the Commission's competence would be in uncertain) towards removing obstacles to the Internal Market. Even with such significant modifications and flexibility, the initiative was rejected. In fact, broadcasters and publishers opting for further liberalisation of the common market, and supported by the German and UK governments, eroded the efforts of the European Commission to put into practice regulation on media pluralism. The failure to introduce complex measures to safeguard media pluralism can, however, be criticised on a more conceptual level. There has been a lack of precise and common understanding of the media pluralism concept, and a workable definition has not been

agreed. Moreover, contradictory policy agendas of the involved parties led to use of the label ‘media pluralism’ in many different ways, most often in reference to anti-concentration measures. Thus, the initial proposal of the European Parliament to approach protection of media pluralism as a complex problem evolved into narrower initiatives addressing fragmented aspects of media pluralism.

The negative response to the idea of specific EU media pluralism regulation has actually confirmed the existing EU regulatory framework concerning media, which is considerably disintegrated. The framework includes the Television Without Frontiers Directive—the ‘TWF Directive’ (audiovisual policy), merger regulation (competition policy) and the package of directives for new media and communications (information society policy). The TWF Directive² proposes the formation of a European audiovisual space through the free movement of television broadcasting services across the internal borders of the European Community. This space is protected by a requirement on broadcasters to reserve the majority of transmission time for European works and by an obligation to include a quota of independent programming. The Directive harmonises provisions concerning protection of minors, the right of reply, advertising and sponsorship, but does not aim in any particular way to safeguard media pluralism. It authorises Member States to require broadcasters to comply with more ‘detailed and stricter’ rules concerning other needs, such as ‘the need to safeguard pluralism in the information industry and the media, and the protection of competition.’³

There has been a vibrant polemic as to whether competition law is an appropriate tool to maintain media pluralism (see Nitsche, 2001: 6-8). Recognising the potential contribution of merger regulation to media pluralism through preventing abuse of a dominant position in a relevant media market, one has to sustain a sceptical approach. The 2004 Merger Regulation (Commission of the European Communities, 2004), replacing the 1989 Merger Regulation (Commission of the European Communities, 1989), aims at protection of effective competition and creates no competence to pursue general interest objectives when determining whether or not to approve a merger (Craufurd Smith, 2004). Only Member States may take appropriate measures to protect ‘legitimate interests other than those taken into consideration by this Regulation’. These legitimate interests include ‘public security, plurality of the media and prudential rules.’⁴ Although the notion of ‘relevant market’ as applied to the media has gone through several changes,⁵ the use of merger regulation for securing media pluralism suffers from two basic limitations. First, protection of competition in the media market and safeguarding media pluralism are two different, not mutually replaceable, objectives. Second, media pluralism cannot be confined to diversity of ownership, which is only one of many elements comprising this complex phenomenon.

The package of directives for new media and communications⁶ is a regulatory response to the convergence of communications services, media and information technology. It consists of five directives regulating following policy areas: access, interconnection, authorisation, universal service, processing of data, all concerning electronic communication networks. Obviously, media pluralism

2 Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities OJ L 298/23, 1989, as amended by Directive 97/36/EC, OJ L 202/60, 1997.

3 The Preamble of TWF Directive.

4 Article 21(4) of the 2004 Merger Regulation.

5 More on the market definition in the media sector see: Commission of the European Communities, Competition DG (2002a, 2002b).

6 Directive 2002/19/EC of the European Parliament and of the Council on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), OJ L 108/7 24 April 2002; Directive 2002/20/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services (Authorisation Directive), OJ L 108/21 24 April 2002; Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ L 108/33 24 April 2002; Directive 2002/22/EC of the European Parliament and of the Council on universal service and users’ rights relating to electronic communications networks and services (Universal Service Directive), OJ L 108/51 24 April 2002 and Directive 2002/58/EC of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on Privacy and Electronic Communications), OJ L 201/37 31 July 2002.

does not function as a main rationale here, and thus only some measures have an impact on media diversity as such. These include, for instance, the procedures for allocating broadcast frequencies and transit rights on the basis of transparent, non-discriminatory and proportionate criteria. Another example refers to provisions of the Universal Service Directive, under which the Member States have an opportunity to require cable operators to carry public service broadcaster (Article 31). In general, the new media and communications package reflects a political wish to incorporate as large a proportion of the population as possible within the scope of new communication services, but this policy objective is rather driven by commercial than public-interest motives (Van Cuilenburg and McQuail, 2003). Accordingly, regulatory instruments enshrined in the 2002 new media and communications directives affect media pluralism fairly unintentionally.

Despite its weak legislative powers, European Parliament has more frequently initiated Community media policy than have the Commission or the Council (Verhulst and Goldberg, 1998: 23). In particular, the Parliament has pressed for action to pursue policies protecting media pluralism. Throughout 1990s, it adopted a number of resolutions addressing various facets of media pluralism. The *Resolution on Media Takeovers and Mergers* (1990)⁷ referred to many worrying examples of concentrations which could readily be observed in national and transnational European media landscapes. Proposals to implement media pluralism regulation at the EU level were formulated in the *Resolution on Media Concentration and Diversity of Opinions* (1992)⁸ as well as the *Resolution on the Commission Green Paper 'Pluralism and Media Concentration in the Internal Market'* (1994).⁹ Finally, the most recent important example is the EP's *Report on the Risks of Violation, in the EU and especially in Italy, of Freedom of Expression and Information* (2004). Examining the situation in selected Member States and focusing on Italy in particular, the report proposes the Commission to review the existing powers (the internal market—Article 95 EC, competition law—Article 81-89, cultural policy—Article 151, the right of establishment—Articles 43-48, the freedom to provide services—Articles 49-55, the rights of citizens—Articles 19-22) and the monitoring of public broadcasting (protocol to the Treaty of Amsterdam) to assess which measures could be adopted to ensure the protection of media pluralism (European Parliament, 2004: 33-34).

An important role in setting up standards for media policy concerning media pluralism has been, and still is, performed by the Council of Europe, the oldest organisation dedicated to political co-operation in Europe. In addition to legal documents having an indirect impact on media diversity (European Convention on Human Rights, European Convention on Transfrontier Television), the Council of Europe adopted a number of recommendations and reports addressing media pluralism issues. The recommendations of the Committee of Ministers are not legally binding, but they do set a number of principles and strategies that are suggested to Member States for further implementation. The range of current Council of Europe's concerns regarding media pluralism can be best illustrated by recommendations on media transparency, independence of public broadcasting, media pluralism and digital broadcasting (Council of Europe, 1994, 1996, 1999, 2003). In addition, two recent reports—*Media Diversity in Europe and Transnational Media Concentrations in Europe*—should be mentioned in this respect (Council of Europe, 2002, 2004).

The effective framework for media policy lobbying is provided through non-governmental pan-European organisations. These include the EBU (European Broadcasting Union), a network for co-operation and co-ordination at the level of public service broadcasters set up in 1950, the ACT (Association of Commercial Television) and AER (*Association Européenne des Radios*), both formed as commercial counterparts to the EBU. In addition, the EPC (European Publishers Council) and European section of the IFJ (International Federation of Journalists) should be mentioned. These bodies seem to occupy an increasingly significant position in European media policy making (Verhulst and

7 OJ C 68, 19.3. 1990, p. 137

8 OJ C 284, 2.11.1992, p. 44.

9 OJ C 44/177, 14.2.1994.

Goldberg, 1998: 17). Moreover, the professional organisations have tended to form alliances to initiate policy changes in media sector. This may be exemplified by their involvement in the consultation process following the 1992 Green Paper on Pluralism and Media Concentration in the Internal Market, when some of these organisations (ACT, AER) opposed the third option (passing special legislation on the concentration of communications media in Europe) favoured by the European Parliament, the Economic and Social Committee and the IFJ. The most recent illustration of this trend of increasing media policy involvement may be drawn from the White Paper issued by ACT, AER and EPC, calling for new regulation of publicly funded broadcasters to safeguard the future of the European audiovisual market. The issue of media pluralism is tackled indirectly in the document, but proposed solutions go beyond single measures and constitute structural intervention. One proposal relevant for media pluralism calls for a clear definition of remits to be imposed on channels or stations operated by publicly funded broadcasters, which should include specific programming obligations that are not required from other broadcasters (Association of Commercial Television in Europe et al., 2004: 27).

In general, EU media policy oscillates between two poles: on the one side its purpose is to form a common European media space and protect this by supporting European dominant media players. On the other side, there is an intention to nurture pluralism and diversity within this media space. Whilst the first objective has been gradually applied through regulatory measures at the EU level, the second seems to be left within the competence of the Member States. At the national level, we may observe a similar media policy dilemma. The Member States too are exposed to two policy options: one, intending to foster dominant national media players and thus contribute to their competitiveness in the internal EU market, or another, aiming at safeguarding media pluralism and diversity, thus improving the communication infrastructure of the national public sphere. As the practice of Member States in the area of media policy shows, the first option is often preferred at the expense of the second.

The following section of the paper will explore policy responses concerning media pluralism in selected Central European EU Member States: Poland, the Czech Republic and Slovakia. It will also attempt to assess media pluralism in its external dimension, while taking into account the specific historical conditions shaping the Central European media landscapes. It should be mentioned in this context that media markets in post-communist countries have developed freely only since 1989, this being a relatively short time in comparison with media markets in the older Member States. Hence, the position of Central European domestic media groups (with some exceptions), is largely defined by (and confined to) national borders. Other specific features are reflected in media regulations that have sought to transform communist media structures into democratic media systems operating in free market conditions. These regulatory solutions have copied West-European models in certain aspects, while other instruments have been locally drawn.

Media Pluralism in Central Europe

Achievement of media pluralism and guaranteeing of freedom of speech were key objectives of media reform in Central Europe after 1989. New regulatory frameworks that have come into effect varied in their responses to these objectives, mainly in terms of approach.

Legal Frameworks

Legacies of censorship and tight media control during the communist era led to broad political and public acceptance of deregulatory press policies after 1989. There was widespread agreement that the best press policy is no policy, and that the invisible hand of the market would be the best regulator in this field. After the abolition of censorship, licensing requirements for the print press were replaced with registration by courts (Poland) or ministries of culture (Czech Republic, Slovakia). The old press laws were amended at the beginning of 1990s, but lack of new press laws caused some disorientation during the transformation of the press sector. For example, some passages of the old laws were not valid or meaningless in post-communist conditions (Gulyás, 2003: 85). In addition, none of the amended press laws addressed media

pluralism in any particular or explicit way.¹⁰ This can be best exemplified by the lack of measures restricting concentration of ownership, or by absence of subsidy policies strengthening local and small newspapers in the press market. Only the Czech Republic passed a new press law, in 2000, but it focuses closely on the rights and duties of publishers, and does not refer particularly to media pluralism.

In a different vein, the television and radio landscape was subject to regulatory control. Former state controlled broadcasting structures have been replaced by public and private broadcast media regulated by different acts (Czech Republic, Slovakia) or a single broadcasting act (Poland). Media pluralism is recognised as a central pillar of these regulations. The Polish Broadcasting Act (1992) distinguishes ‘an open and pluralistic nature of radio and television broadcasting’ as one of the three main objectives to be ensured by the principal regulator—the National Broadcasting Council.¹¹ In the case of the Czech Republic, operation of public broadcasters is regulated by amended federal Czech Radio and Czech Television Acts (1991), while in Slovakia new Acts on the Slovak Radio and Slovak Television (2003) apply, having been designed for the purpose of reforming Slovak public media, which suffered from massive debts. All these acts list among the main duties of Public Service Broadcasting an obligation to provide diverse programme content and plurality of information. In addition to these, the Czech Act on Radio and Television Broadcasting (2001) and Slovak Act on Broadcasting and Retransmission (2000) address issues of plurality of information under special sections, mainly consisting of disqualifications on holding of licences (including anti-concentration provisions).¹²

Finally, as markets, the media landscapes in Central European countries have become subject to new competition laws.¹³ Their relevance to media pluralism stems from the functions of competition policies, including protection of competition through preventing abuse of market dominance.

Table 2: An Overview of Legal Frameworks Impacting on Media Pluralism

	Broadcasting Laws	Press Laws	Competition Laws
Poland	1992 Broadcasting Act 2004 Amendment to BA implementing TWF	1984 Press Law, as amended	2000 Act on Competition and Consumer Protection
Czech Republic	1991 Czech Radio Act 1991 Czech Television Act 2001 Act on Radio and Television Broadcasting implementing TWF	2000 Act regulating the Rights and Duties related with the Publishing of Periodicals	2001 Act on Protection of Competition
Slovakia	2000 Act on Broadcasting and Retransmission implementing TWF 2003 Slovak Radio Act 2003 Slovak Television Act	1966 Act on Periodical Press and other Mass Media, as amended	2001 Act on Protection of Competition

10 Polish Press Law of 26 January 1984, *Official Gazette*, No 5, item 24; Slovak Act 81/1966 on Periodical Press and Other Mass Media, 25 October 1996; Czech Act No 46/2000 regulating the Rights and Duties related with the Publishing of Periodicals, 22 February 2000.

11 Broadcasting Act adopted on 29 December 1992, *Official Gazette* No 7, item 34, 1993, Article 6 (1).

12 Czech Act on Radio and Television Broadcasting Operation and on Changes of other Acts adopted on 17 May 2001, *Official Gazette* No 231/2001 Coll.; Slovak Act on Broadcasting and Retransmission and on Amendments of Act No 195/2000 Coll. on Telecommunications adopted on 14 September 2000, *Official Gazette* No 308/2000 Coll.

13 Polish Act on Competition and Consumer Protection adopted on 15 December 2000, *Official Gazette* No 122, item 1319, 2000, as amended; Czech Act on Protection of Competition, adopted on 4 April 2001, *Official Gazette* No 143; Slovak Act on Protection of Competition, adopted on 27 February 2001, *Official Gazette* No 136/2001 Coll.

Regulatory Bodies

The scene of regulatory bodies reflects structure of legal frameworks in all of the three countries. There are no special regulators for the press, while broadcasting is supervised by national councils. In the case of Poland, the nine members of the National Broadcasting Council are nominated by the Sejm¹⁴ (4), the Senate (2) and the President (3). The nine members of the Slovak Council for Broadcasting and Retransmission are appointed by the Parliament, and the 13 members of the Czech Council for Radio and Television Broadcasting are designated by the Prime Minister on the basis of a proposal by the House of Deputies. Besides these, operation of public service broadcasters is overseen by the Czech Radio and Czech Television Council in the Czech Republic, and the Slovak Radio and Slovak Television Council in Slovakia. All of these councils are composed of members selected by the Parliaments.

In addition, offices for competition protection perform control over media ownership and concentration on the basis of the competition laws.

Table 3: An Overview of Regulatory Bodies

	Media-Specific	Competition
Poland	1993 National Broadcasting Council	2000 Office for Competition and Consumer Protection
Czech Republic	1991 Czech Television Council 1991 Czech Radio Council 2001 Council for Radio and Television Broadcasting	2001 Office for Protection of Competition
Slovakia	2000 Council for Broadcasting and Retransmission 2004 Slovak Television Council 2004 Slovak Radio Council	2001 Antimonopoly Office

Regulatory Measures

All the above mentioned legal provisions and regulatory bodies provide a general normative framework for the protection of media pluralism. Its applicability should be assessed against particular regulatory instruments, including limits on concentration of media ownership, reservation of broadcasting frequencies, requirements for original programming or programming produced by independent producers, and direct and indirect subsidies.

Limits on concentration of media ownership have been laid down in the broadcasting laws of all three countries. These provisions operate through the procedure of granting and revoking broadcasting licences (Poland), or disqualifications on holding the licenses (Czech Republic, Slovakia). In Poland, sector specific broadcasting rules, additional to those developed within competition law, are not independently applicable in their entirety. They are partly parallel, partly complementary. In the cases of the Czech Republic and Slovakia, both broadcasting law rules and competition law rules are applicable in parallel. The Czech Broadcasting Act (2001) limits concentration in the broadcasting sector and stipulates that a

¹⁴ The lower chamber of the Polish Parliament.

nation-wide television or radio broadcaster may hold only one licence for nation-wide radio or television broadcasting (Article 55). These provisions do not address the press sector, hence anti-concentration limits refer only to broadcast media. The Slovak Act on Broadcasting and Retransmission (2000) contains restrictions concerning cross-ownership in print and broadcasting sectors.

In general, the anti-concentration provisions contained in media specific legislation aim at limiting *horizontal media concentration* (or *monomedia concentration*, referring to concentrated ownership within a single sector of activity, in this case radio or television) in Poland, the Czech Republic and Slovakia. *Diagonal media concentration*, integrating ownership and capital among different media sectors, is limited partly in the Czech Republic (only with reference to the broadcast media) and in Slovakia (with reference to broadcast media and national daily newspapers). *Vertical media concentration*, integrating ownership and capital across different phases in the supply chain for a media product is not regulated in these broadcasting laws.

Anti-concentration provisions enshrined in national competition laws limit horizontal media concentration in the sense of protecting competition by preventing companies to acquire dominant positions in the relevant media markets. Media sector markets are treated separately, because the competition laws divide ‘relevant markets’ according to the criterion of consumers’ ability to regard products as substitutes. Dominant position is basically understood as a position allowing an entrepreneur to prevent efficient competition in the relevant market. The basic limits on a market share, excess of which determines a dominant position, have been laid down in the Polish and Czech Competition Protection Acts.¹⁵ The evaluation of this position, however, also takes into account other criteria.

The liberal approach towards concentration of print press ownership that originated at the beginning of 1990s has not been challenged by implementation of the broadcasting and competition laws. The modest number of anti-concentration resolutions may be illustrated by two recent judgements of the Polish Office of Competition and Consumer Protection. The Office charged the publisher *Polskapresse*¹⁶ with penalties amounting altogether to € 100,000 as the company twice failed to notify an intention of concentration in the regional daily newspaper market.

In fact, anti-concentration provisions have neither prevented media companies from establishing dominant positions in media sector markets (such as *Verlagsgruppe Passau*, which controls 90% of the Czech regional press market). Nor have anti-concentration provisions limited extensive cross media ownership (as in the case of *Markíza* group in Slovakia, which controls a national daily newspaper, a national private television station, and a radio station, as well as production and advertising agencies). Moreover, an attempt to introduce tighter rules on media concentration designed for the purpose of safeguarding media pluralism in Poland ended with disclosure of a corruption scandal, which ultimately resulted in the resignation of Leszek Miller’s government.

This corruption scandal, widely referred to as *Rywingate* was exposed on 27 December 2002 by *Gazeta Wyborcza*, the leading national daily in Poland.¹⁷ In his talk with the daily’s editor-in-chief, Adam Michnik,¹⁸ a film producer, Lew Rywin,¹⁹ solicited an immense bribe in order to induce

15 This limit is 40% in the both Acts. See: Polish Act on Competition and Consumer Protection adopted on 15 December 2000, *Official Gazette* No 122, item 1319, 2000, as amended, Article 4; Czech Act on Protection of Competition, adopted on 4 April 2001, *Official Gazette* No 143, as amended, Article 10 (3).

16 *Polskapresse* is the company, through which German *Verlagsgruppe Passau* operates in the Polish market.

17 *Gazeta Wyborcza* was established in 1989 to support the Solidarity during the first free elections after the collapse of communism in Poland. It has become the most popular daily in Poland, which acquired the status of a publicly influential institution.

18 Adam Michnik is a former anti-communist dissident and political prisoner, author of numerous books and essays, a moral authority and one of the most influential Poles. Since 1989, he has been editor-in chief of *Gazeta Wyborcza* and one of the shareholders of the *Agora* company.

19 Lew Rywin is a film producer, since 1991 owner of *Heritage Films*, producing and co-producing such films as ‘The Schindler’s List’ by Steven Spielberg, ‘Pan Tadeusz’ by Andrzej Wajda and ‘The Pianist’ by Roman Polański. He was

changes in the Draft Amendment to the Broadcasting Act which would be advantageous to *Agora* company, the owner of *Gazeta Wyborcza*. Among other things, the changes would allow purchase of *Polsat* television (the largest private television in Poland) by *Agora*, which would not be possible under disqualifications proposed in the Draft Amendment. During the conversation, Lew Rywin mentioned that he was acting on behalf of ‘a group in power’ and made it understood that the Prime Minister, Leszek Miller, knew about his visit.²⁰ *Gazeta Wyborcza*’s leading story raised an immediate public reaction and caused an investigation by a special committee appointed by the Sejm. The Investigation Committee hearings disclosed several serious irregularities concerning legislative procedures. These circumstances led to broad criticism of the Draft Amendment and its subsequent withdrawal from the Sejm at the end of July 2003. Instead, the Ministry of Culture prepared a new amendment (also called ‘a small amendment’), enacted by the Parliament in March 2004. This document lacks anti-concentration clauses, nor does it regulate control of transparency of media ownership. It focuses mainly on provisions implementing TWF Directive (Klimkiewicz, 2004).

Alongside anti-concentration provisions, media pluralism can be fostered by reservation of broadcasting frequencies. In Poland, some frequencies are reserved for ‘social broadcasters’, which are not obliged to pay fees for awarding a licence.²¹ In Slovakia, retransmission operators are required to reserve one channel free of charge for local broadcasting.²² Provisions on requirement of programming created by independent producers were implemented in accordance with the TWF in the three countries, but no special instruments were designed in national media laws to require portion of original programming to prevent content recycling.

Direct and indirect subsidies to the print press can be characterised, in Poland, the Czech Republic and Slovakia, as scattered policy initiatives and accidentally used instruments. In Poland, the print press benefits from a reduced 7% VAT rate. 22% VAT is however imposed on those newspapers and periodicals which reserve 67% of their space for commercial announcements and advertising.²³ In the Czech Republic magazines benefit from a reduced 5% VAT rate, whilst Slovak newspapers and periodicals are deprived of this advantage. By and large, VAT reduction applies to all newspapers, magazines or periodicals and thus could hardly influence pluralism within the print media sector. It does not specially help small newspapers, instead it rather strengthens the whole print media sector in the face of the many difficulties it is confronts. In Poland, small and community press is protected through a scheme of ‘specialised periodicals’, which are exempted from VAT (see more Klimkiewicz, 2004: 370-371). There are no similar provisions designed for Czech and Slovak press titles.

In the three countries, direct subsidies to the print press are provided for a relatively modest number of periodicals. The relevant ministries aid financing for some cultural magazines, academic periodicals and environmental magazines, a few with an ongoing support and the rest through competitive grants. National minority press is subsidised on an annual basis in all of the three countries through the Ministries of Culture (see more Klimkiewicz, 2003). Many attempts to use direct subsidies for establishment of new print titles failed. For instance, the Slovak daily *Národná Obroda* was brought into the Slovak media landscape and financed by the government with the aim of contributing to media diversity, but ceased to be profitable in the 90s. Only when the newspaper was bought by the Markiza group, did its circulation grow.

(Contd.)

President and Head of the Supervisory Board of *Telewizyjna Korporacja Partycypacyjna*, a company controlling *Canal Plus* and the *Cyfra+* platform. After disclosure of *Rywingate*, he resigned from these positions.

20 The cover story with a written record of the conversation between Adam Michnik and Lew Rywin was reported by P. Smoleński, ‘Ustawa za łapówkę, czyli przychodzi Rywin do Michnika.’ (‘The Law for a Bribe or Rywin Calling on Michnik’), *Gazeta Wyborcza*, No 300, 27.12. 2002.

21 Polish Broadcasting Act (1992) Article 39 (b) 2.

22 Slovak Act on Broadcasting and Retransmission, Article 17 (b).

23 Polish Act on Commodity and Service Tax adopted on 20 February 2004.

Table 4: Media Pluralism Regulatory Measures

	Poland	Czech Republic	Slovakia
Anti-Concentration Rules	horizontal only	horizontal—all media diagonal—broadcasting only	horizontal and diagonal
Reservation of Broadcasting Frequencies	yes	no	yes
Requirement of Independent Programming	yes	yes	yes
Requirement of Original Programming	no	no	no
Direct Subsidies	yes	yes	yes
Indirect Subsidies	yes	yes	no

Conditions for Access

Diversity of media landscapes in Poland, the Czech Republic and Slovakia is closely related to the process of print press privatisation and market entry by private television and radio. Privatisation of the press lay at the very centre of government responses to the problem of monopolistic and centralised media systems in Central Europe. Unlike in the Czech Republic or Slovakia, where privatisation was mainly spontaneous, the Polish administration chose a model of state directed privatisation.

Polish privatisation initiatives in the press sector can be largely subsumed by a process of dismantling the giant publishing organisation—*RSW 'Prasa-Książka-Ruch'* (The Workers' Publishing Cooperative 'Press-Book-Ruch'), that has dominated the Polish press landscape for 40 years. *RSW* privatisation followed three basic strategies: transfer of newspapers and periodicals to staff co-operatives, sale of press titles to private owners, and return of remaining property to state control. In the Czech Republic and Slovakia, either political parties (mostly the Communist Party of Czechoslovakia) or state organs (mainly ministries) were print press publishers until 1989. After the fall of communism, a large portion of Czech and Slovak media was managed by its editorial staff. An ownership vacuum invoked spontaneous privatisation initiatives leading to transfer or sale of newspapers and magazines to journalistic teams or private owners.

In all three countries, most privatisation transactions were conducted at the very beginning of 1990s. Administration driven or spontaneous, the privatisation processes led to problematic ends. The press laws contained no measures regarding intervention in the press market, and thus no restraints on media concentrations. There were virtually no instruments to influence the take-overs, mergers and acquisitions that followed the first privatisation period. This, then, led to relative concentration of ownership. Moreover, an unbalance between domestic and foreign investment resulted in dominant foreign ownership, unlike in the case of broadcasting safeguarded by legal barriers.

Table 5: Privatisation of the Press

	Start	Strategies	Means of Privatisation
Poland	1990	<ul style="list-style-type: none"> • transfer to staff • sale to private owners • return to the state property 	<ul style="list-style-type: none"> • driven by administration
Czech Republic	1990	<ul style="list-style-type: none"> • transfer to staff • sale to private owners • sale to companies owned by the state 	<ul style="list-style-type: none"> • spontaneous
Slovakia	1990	<ul style="list-style-type: none"> • sale to private owners • sale to staff 	<ul style="list-style-type: none"> • spontaneous / controlled by state

Access to the broadcasting landscape has depended heavily on the regulatory policies of national regulators. In general, the television and radio landscapes in Poland, the Czech Republic and Slovakia were fundamentally shaped during the first licence-granting processes in the years 1993-1994. These aimed to establish models that would provide initial pluralism of broadcasters, not competing for the same audience but complementary addressing different audiences and their needs. As a result, licences were granted to national, supra-regional, regional and local broadcasters. These regulatory strategies have not precluded two leading commercial stations—in the Czech Republic (Nova) and Slovakia (Markiza)—from significantly dominating the national television landscapes shortly after their market entry.

Table 6: Market Entry of Private TV

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
POLSAT (Poland)			√	√	√	√	√	√	√	√	√	√
TVN (Poland)						√	√	√	√	√	√	√
TV 4 (Poland)							√	√	√	√	√	√
NOVA (Czech Republic)			√	√	√	√	√	√	√	√	√	√
PRIMA (former PREMIÉRA) (Czech Rep.)		√	√	√	√	√	√	√	√	√	√	√
MARKÍZA (Slovakia)					√	√	√	√	√	√	√	√
TV JOJ (Slovakia)											√	√
TA 3 (Slovakia)										√	√	√

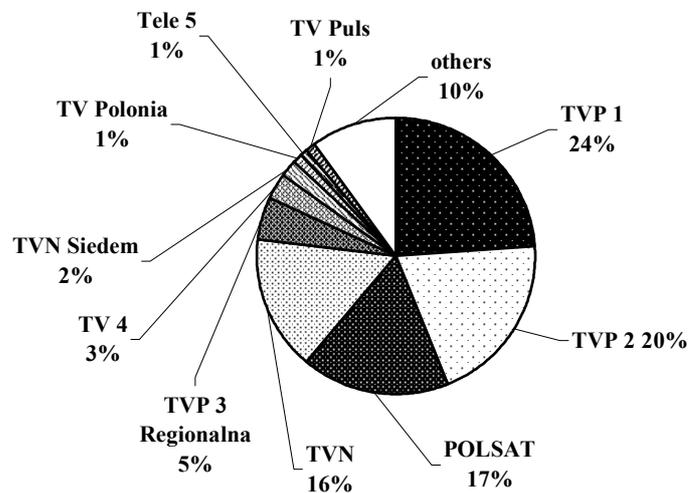
Diversity of Media Landscapes and Ownership Patterns

External diversity of media landscapes is reflected in the existence of autonomous and independent media belonging to different owners. As regards the print press, the period following 1989 saw proliferation of new titles in the Central European press markets. During the later period, the number of newspapers in Poland, the Czech Republic and Slovakia gradually started to decline. This process especially intensified at the regional level in the second half of the 90s, when the practice of consolidation was repeatedly used by owners. On the other hand, the number of magazines has been increasing. Publishers often decide to introduce a new title similar in content to a best-selling category. Accordingly, *Bauer* in Poland publishes eight TV guides slightly differing from each other (Klimkiewicz, 2004: 390). The average circulation of dailies continues to decrease, while magazine circulation is stable and in some cases increasing.

There is a private and public sector duopoly in television landscapes, and a similar picture emerges in radio landscapes. Significant changes in the quantity of terrestrial, satellite and cable TV channels has taken place in the last seven years. During this period thematic, mostly foreign owned TV channels appeared on the market (including *Discovery channels*, *MTV*, *Animal Planet*, *Le Cinema*, *HBO*, *Eurosport*, *RTL* and others) and digital platforms were established. However, these developments have not challenged the positions of the principal television players in any of the three countries.

The Polish television landscape is largely dominated by the public broadcaster *TVP*—*Telewizja Polska*, gathering almost 50% of national TV audience. The superior position of *TVP* ensues from two reasons. First, this public (formerly state) broadcaster had monopolised the TV landscape for 40 years, resulting in high audience loyalty. Second, unlike in the case of the print press, foreign owners were allowed to hold only minority shares (up to 33 per cent) in the Polish broadcasting media until 2004.

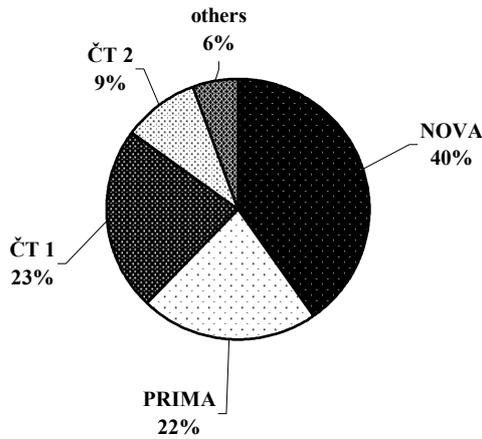
Figure 1: Television Audience Share in Poland



Source: AGB Polska (2004)

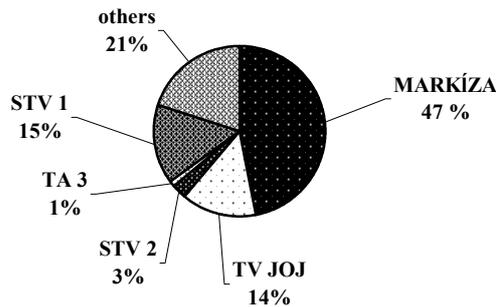
A different scene emerges in the Czech Republic and Slovakia, where the television landscape is dominated by private players. The Czech TV broadcaster *Nova* has caused frequent political debates, not only for its lowest common denominator programming, but also, for problematic ownership relations (Šmíd, 2004). Like *Nova*, the Slovak TV station *Markíza* has maintained a dominant position since its successful launch in 1996.

Figure 2: Television Audience Shares in the Czech Republic



Sources: ATO (2004)

Figure 3: Television Audience Shares in Slovakia



Sources: Visio (2003)

The range and programming offer of national private TV channels in the three Central European countries is far from being fully diverse. The main private terrestrial TV channels are predominantly entertainment oriented. News, education and other related genres comprise a small portion of programming, that does not surpass 10% of the total programming offer.

Dominant media owners in Central Europe may be divided into three categories: companies opting for monomedia expansion and specialisation (mainly foreign publishers—*H. Bauer*, *Axel Springer* in Poland, *Ringier* in the Czech Republic and Slovakia, *Rheinisch-Bergische Verlagsgesellschaft* in the Czech Republic, *Verlagsgruppe Passau* in all three countries), owners developing through cross-media ownership (mostly domestic groups—*Agora*, *ITI Holdings* in Poland, the *GES* group in the Czech Republic, the *Markíza* group in Slovakia) and groups opting for synergy investment in media and non-media sectors (*Polsat* in Poland, *PPF* in the Czech Republic, the *Grafobal* Group in Slovakia).

The print sector is dominated by foreign, mostly German, owners. The thin number of domestic competitors with control over large circulation shares includes *Agora* in Poland and *Borgis* in the Czech Republic. It has to be added, however, that a number of relatively smaller owners publishes

highly popular titles (for instance *Murator*, *Polityka—Spółdzielnia Pracy*, *AWR 'Wprost'*, *Migut Media* in Poland, *Spoločnosť 7 dní* in Slovakia). At the same time, small media companies continue to merge with powerful groups. Extreme consolidation affects mainly regional press markets, practically leading to formation of monopolies in the Czech Republic (*Verlagsgruppe Passau—VGP*) and Slovakia (*Petit Press*²⁴), and a duopoly in Poland (*Orkla Press* and *Polskapresse*).

Table 7: Cross-Media Ownership

	National Newspaper	Regional Newspaper	Magazine	TV	Radio	Internet Portal	Advert. Agency	Others
Agora (Poland)	√	√	√		√	√	√	√
H. Bauer (Poland)			√					√
Orkla Press (Poland)		√	√			√	√	
Polska Presse (Poland)		√	√			√	√	
PPF (Czech R.)			√	√				√
GES Group (Czech R.)			√	√	√			√
VGP (Czech R.)		√	√					
Markíza Group (Slovakia)	√		√	√	√			√
Grafobal Group (Slovakia)				√			√	√
Petit Press (Slovakia)	√	√	√			√		√

Conclusions

At the normative level, media pluralism is softly regulated in Poland, the Czech Republic and Slovakia. Anti-concentration provisions enshrined both in media and competition laws tackle a small scope of the problem, because they address horizontal, rather than diagonal or vertical media concentration. The limited scope of other regulatory measures (reservation of broadcasting frequencies, requirement of independent and original programming, subsidies) should be also mentioned.

²⁴ *Verlagsgruppe Passau* owns 50 % of *Petit Press*.

One of the main dilemmas concerning media regulation in the selected Central European countries is inconsistency of policy objectives that are to be addressed in one regulatory model. The need to secure media pluralism stems from disparate conditions and is a different policy objective than would be ensuring appropriate functioning of the market through competition. This neglected distinction may help to explain an absence of structural regulatory mechanisms aiming at safeguarding media pluralism in all the three countries.

Yet, concentration of media ownership is the indisputable reality of Central European media landscapes. Recently, it has been accompanied by increased links between sectors and common strategies used by owners, which have a direct impact on media performance. These include co-operation in sharing costs and services among competing media and owners (*Orkla* and *Polskapresse* in Poland; *NOVA* and *PRIMA* in the Czech Republic), agreements made to benefit from cross-sectoral provision, and cross-ownership of disparate service providers (*ITI, Holding FM* in Poland, *ARJ* in Slovakia), saving of journalistic production costs by cumulative content recycling, duplicating mainstream content formats by both private and public media, and finally, targeting of majority audiences.

As a result of the above mentioned developments, the diversity of press landscapes has been continuously affected by decline and consolidation of newspapers. Due to sustained concentration, the variety of regional press has been constantly shrinking. The greatest diversity has prevailed in the magazine market, where, according to segment, several (and in some cases even many titles) compete for the same group of potential readers (TV guides, women's magazines). But also here, the market has been divided between few strong publishers (*H. Bauer, Axel Springer* in Poland, *Ringier* in the Czech Republic and Slovakia).

The analysis presented above indicates that the problems affecting media pluralism in Central European Member States are addressed by national policy responses only to a limited extent, which does not provide a sufficient subsidiary framework to EU regulatory measures. There is need for a coherent set of standards and rules on protection of media pluralism both at the national and EU levels. At the same time, different media types (mainstream, local, minority) or performance (news, documentary, drama, entertainment, advertising) do not necessarily have to be treated equally. Diverse regulatory instruments may be used for different purposes (such as the particular mission of public broadcasting), but the objective should be one—that of securing media pluralism as one of the basic conditions for sustaining democratic communication structures within the European public sphere.

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