



# The process of switchover to digital broadcasting



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## **Introduction**

Although Albania was a pioneer country in the Balkans when the first commercial digital multiplex started broadcasting in 2004, now that the official deadline for digital switchover is already here, it is lagging behind almost all countries in the region. What lies at the roots of this process, which seemed to start in a rush and came to a halt along the way? The report aims to address these questions, analyzing some of the key steps and factors, such as drafting of regulation, influence of political climate on institutions, capability of implementing institutions, the influence of commercial interests, the role of public broadcaster and local operators, as well as the overall responsibility to the public in this respect.

## Media Landscape

Albania has a rich and dynamic media landscape, with about 250 broadcast media outlets and 25 daily newspapers. At the moment there are two national commercial televisions, TV Klan and Top Channel TV, 64 local analogue televisions, and 115 local cable televisions.<sup>1</sup> Of all the existing national analogue television stations, the public broadcaster Radio Televizioni Shqiptar (RTSH) has the greatest reach: its signal covers 87 percent of the territory.<sup>2</sup> In addition, there are three commercial digital multiplexes, Digitalb, Tring, and Supersport. Supersport is hosted in the Digitalb platform.

In addition there are 65 local radio stations and two national radio stations, Top Albania Radio and +2 Radio, as well as public broadcaster Radio Tirana.<sup>3</sup> However, radio stations seem to be more of an entertainment medium, with mainly music, interrupted by news flashes or talk show programs.<sup>4</sup>

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<sup>1</sup> AMA List of TV and cable broadcasters: <http://ama.gov.al/preview/mediat/tv/> , <http://ama.gov.al/preview/mediat/kabllor/>

<sup>2</sup> KKRT, *Annual Report 2014*, p. 9.

<sup>3</sup> AMA List of Radio broadcasters: <http://ama.gov.al/preview/mediat/radio/>

<sup>4</sup> AMI, *Media dhe shoqëria e informacionit ne Shqiperi*, Tirana, 2011, p.8.

## **Attempts to regulate digital switchover process**

In general, due to the history and nature of developments with audiovisual media in the country, legislation and the regulator have lagged behind the emergence of media and trends, usually legislating to regulate what was already in the market. The most visible example of regulation following developments on the ground is perhaps the case of digital switchover. The first commercial digital multiplex, Digitalb, started operating in 2004, when neither the regulator, nor other lawmakers had yet discussed or issued regulation on digital broadcasting. This new advent in the Albanian media scene was soon followed by that of another digital platform, this time a satellite one, SAT+. After much controversy surrounding the attempts to regulate these enterprises that ensued from the regulatory authority, the Parliament, the relevant international organizations, and media representatives themselves, they became a constant reality and serious competitors in the Albanian media landscape, even though they were still “illegal” in terms of media regulation.

Faced with increasing pressure of announced plans to start a digital television, the regulatory authority worked to draft a strategy for digital switchover and consequently amend the law on broadcasting. The first draft of the Strategy for Digital Broadcasting was drafted in 2005 by

the regulator, National Council of Radio and Television, with international expertise. This strategy provided a brief analysis of the existing situation up to that moment in terms of frequency plan and development of television sector, an examination of the advantages and disadvantages of the introduction of digital television, the potential scenarios, the licensing criteria, and the potential plan for switchover, as well as recommendations for its success.

Parallel to the strategy, there was an initiative to amend the existing law on broadcasting, in order to accommodate digital broadcasting. The working group was composed by then-members of Parliamentary Commission on Media, NCRT staff, and foreign experts commissioned by the OSCE Presence in Albania. However, while drafting the amendments, an initiative to pass the law on digital television emerged from a group of members of Parliament. At the end, this version of the law made it to the last plenary session of the legislature, but, amidst controversial voting procedure, it did not pass. Both this version of the law and the one drafted by regulator were deemed as insufficient and with significant flaws by foreign expertise<sup>5</sup>. Consequently, existing digital multiplexes continued to operate, and two more emerged in later years, respectively Tring and Supersport.

The next initiative to regulate the environment of electronic media and pave the way for digital broadcasting

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<sup>5</sup> AMI, "Digital Television in Albania: Policies, development, and public debate," 2006.

came in 2007, when the Law on Digital Broadcasting was approved. Under the broadcasting law, the regulator NCRT was responsible for granting three sorts of licences: for service providers, network operators and content providers. The law obliged analogue operators to simulcast until the percentage of households receiving analogue broadcasting sank below 10 per cent of the total area where they air. On the other hand, public broadcaster RTSH had the right to use two of the seven nationwide frequencies assigned by the RRC-06 to Albania for digital use. The law also imposed some obligations on digital network operators. They had to offer at least 50 per cent of their services free-to-air, while the public service broadcaster would not charge for any of its programmes. In addition, the digital broadcasters should comply with several other requirements, including fairness and editorial independence in their news and information services. At first sight, the licensing criteria seem fair and public-oriented, especially with regard to the emphasis on choosing non-proprietary standards, transparency of costs and broad choice on content.

The Government submitted the law to Parliament in February 2007, at a time when Parliament had already adopted – in co-operation with the Council of Europe – an action plan to review the media legislation and draft a law on digital broadcasting by the end of the year. Media owners and directors protested that they were not consulted on such an important law. The debates preceding the adoption of the law focused on its impact on the existing

market, where DigitAlb had become a successful player. DigitAlb's representatives insisted that they asked for nothing more than legalisation of their activity, without having to start from scratch.<sup>6</sup> After several hearings with the stakeholders and receiving comments and suggestions from the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, and European Commission, the ruling majority passed the law without the consent of the opposition, which refused to vote. The debates on the amendments to the law rarely focused on their purpose and effects, which raises questions about how efficiently this law would be implemented. In fact, the digital licensing process never started and the law was never implemented.

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<sup>6</sup> Minutes of Meeting of Parliamentary Media Commission, 20 April 2007, available at <http://www.parlament.al/dokumenti.asp?id=2351&kujam=Komisioni> (accessed 18 October 2007).

## **Current regulation of digital broadcasting**

The efforts to legislate digital switchover have been long, and drafting of policies and their implementation has been slow and often the process has often come to a halt. Due to different reasons, the digital broadcasters have operated for almost ten years in the absence of effective efforts to regulate this environment, and media regulators have now found themselves confronted with a *fait accompli* that cannot be ignored and has to be factored into future media policy and regulation.

While the Action Plan signed by the government with Council of Europe in 2006 also comprised the drafting of new audiovisual law in the parliament, the government approved on May 2, 2012 the Strategy to Digital Switchover, which would pave the way for the official start of the switchover to digital broadcasting. Since the first version of the strategy for this process in 2005, there have been several attempts to draft, revise, and approve the strategy. This version of the strategy went through the work of an ad-hoc committee, composed of responsible ministries, public service broadcaster, electronic media regulatory authority, representatives of electronic media, etc. After approval of the Strategy, the head of the National Council of Radio and Television called for the speedy approval of the draft law on Audiovisual Services, which was still being discussed in the

Parliament, so that both the Strategy and the new law would start implementation. However, it took almost one more year to finalize and approve the new law, Law 97/2013 “On Audiovisual Media,” approved in March 2013.

The situation of prolonged broadcasting with no regulation has resulted in several challenges regarding switchover. These challenges consist in guaranteeing fair and free competition in the market while guarding already made investments, overseeing that public interest is above any business interest, enabling access and fair conditions to local operators, guaranteeing the transition to switchover for the public service broadcaster, along with the guarantee of the fulfillment of the public mission, ensuring sufficient information, know-how, and funds for the public that cannot afford switchover, etc. The Strategy addresses these issues by outlining the limitations for ownership of multiplexes, the modalities for the network and access to local multiplexes, the funding for public awareness campaign and the subsidy for decoders, the transition costs of the public broadcaster, and licenses of the commercial multiplexes. The aim of the strategy was to set the necessary guidelines for the final switchover that was supposed to be completed by June 17, 2015. For this purpose, an inter-institutional committee was set up, which would oversee the implementation of the switchover.

After approval of the Strategy on Digital Switchover, on 4 March 2013, the Albanian Parliament approved Law 97/2013 “On Audiovisual Media in the Republic of Albania,” after several years of discussion and stagnation.

This law aimed to harmonize Albanian media legislation with the Audiovisual Media Services Directive (2010/13/EU – AVMSD) of the European Union and in order to respond to the reality of the audiovisual media sector. Both political wings reached consensus on the law, with the exception of the election procedure regarding the members of regulatory authorities. In fact, this failure to agree on an appropriate formula has proved to be a continuous challenge and reason for political fight.

The law added new competences to the functions of the regulator, now called Audiovisual Media Authority, AMA. Those are the issuing of digital broadcasting licenses and authorizations, the preparation of instructions and regulations on usage of public broadcaster infrastructure, the mediation of disagreements between operators, and preparation of studies and research works in the audiovisual media sector.

AMA had a slow start in its overall functions, especially regarding digital switchover, as it became subject of political disagreement between opposition and ruling majority. Both sides could not agree on the constitution of new council with missing members and there was a dispute on the validity of the mandate of the then-chair of AMA. The process was long and dragged, and the matter is still disputed at court. Currently AMA is still missing the quorum for making certain decisions in view of one missing member and the refusal of members appointed by the opposition to participate in the decision-making process. In the meantime AMA has also approved the

regulation “On the licensing of digital networks and programs that rely on them, through the procedure of Beauty Contest,” starting the licensing process that invites existing multiplexes to participate in the contest.

At the end of March 2015 AMA drafted a work plan for the process of digital switchover, covering the detailed tasks to be completed in the time span February – June 2015<sup>7</sup>. The work plan included these major areas: drafting of regulations that would enable start of digital switchover, agreement with public broadcaster on switchover plan, communicating and agreeing with local analogue operators, communication with ITU, state funding needed, and the public awareness campaign. More specifically, the plan of activities included the following tasks:

- Revision of “Beauty Contest” Regulation. This was first drafted, consulted, and approved in July 2013.
- Regulation on enumeration plan of programs. 3. The regulation on conditional access is drafted, but needs to be revised, due by April 20.

In addition, cooperation of AMA with public broadcaster RTSH was also important part of the plan:

- Determining the criteria and number of programs of public nature and free-to-air, and those with conditional access.
- Establishing the criteria and contracts that RTSH and existing local operators will sign for using the

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<sup>7</sup> <http://ama.gov.al/preview/wp-content/uploads/2015/03/planipunessprdigitalizimin.pdf>

network of the public operator. Simultaneously, the issue of fees the operators must pay for using this network should be discussed. Local operators were supposed to be part of the discussion.

- The regulation on criteria and regulatory measures for common use of RTSH's broadcasting infrastructure should be revised.

The plan for analogue local networks consisted in:

- Digitalization of analogue local networks.
- Depending on the progress of construction of the RTSH multiplexes, the plan of coverage for each operator and the action plan should be drafted, coordinating the use of public networks by local private operators.
- Public information campaign tasks included the following plans:
  1. A call-center will have to be established. Funds will have to be secured, the staff will have to be trained and manuals have to be ready for the staff to use.
  2. Public information campaign in the media. An informative brochure will be drafted.
  3. Organization of conferences to raise awareness on digital switchover. Three regional conferences and one national will be organized, but the time will depend on determination of regulation and criteria that will be presented in the conferences.

## **Efforts to implement digital switchover process**

The implementation of the Strategy of the Digital Switchover and of the Law on Audiovisual Media has been very slow. Two days before the deadline of June 17, 2015, set for the digital switchover for the European continent, AMA issued a press release that notified the deadline for digital switchover was impossible to meet in the current circumstances: “AMA has notified the Parliament of Albania, the Government, the Ministry of Innovation and Public Administration, AKEP, RTSH and audiovisual subjects on the range of problems that directly affect the process of digital switchover, such as: the immediate request for starting to build digital networks of RTSH, the completion of AMA Board with one missing member and possibility for AMA to go back making decisions that require a quorum. In view of all of these and despite of all the measures taken, it is impossible to fully implement the Strategy for Digital Switchover and the deadline of final switch-off of analogue broadcasting, set for June 17, 2015, cannot be met.”<sup>8</sup>

The reasons for the delay in digital switchover process are complex and related to deep-seated problems of Albanian media and its way of functioning. In order to

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<sup>8</sup> AMA Press Release, June 15, 2015.

understand the dynamics of this process and the factors that delay its completion, the following analysis will address the situation with the regulatory authority, its functioning and powers; the problems in digitalization of public broadcaster, the role of commercial media in digital switchover process, the situation of local operators, and the responsibility of authorities and media vis-à-vis the public in this process.

- ***The functioning of the regulatory authority***

As it was briefly mentioned above, the regulatory authority has not been able to perform smoothly in the process of digital licensing and switchover, due to problems in its constitution and functioning. The rotation of power after June 2013 elections in Albania brought once more to the fore the debate on election of the media regulatory authorities, namely the Authority on Audiovisual Media that supervises the implementation of the law by audiovisual media operators, and the Steering Council of the Albanian Radio and Television, RTSH, which is the highest governing body of the public broadcaster. While the formula for electing members of the regulators has changes a few times, the lawmakers have not managed to find a way to overcome delays and hindrances in functioning of the regulators due to lack of members or political blocking. The current formula is no exception. The Law “On Audiovisual Media” was adopted in March 2013, after more than six years of discussion,

revision, redrafting and consultation with experts and stakeholders. The final version of the law brought before the parliament was a product of agreement between both political wings, with the exception of the formula on election of regulatory authority and the Steering Council of public broadcaster. Failing to reach a consensus, the then-ruling majority's proposal of this formula passed only with majority votes.<sup>9</sup> According to current regulation the chair of AMA will be elected with simple majority of the votes, meaning that the head of the regulator will be again linked to map of seats in the parliament, as he/she will be elected through simple majority votes, with no mandatory need for consensus or any other kind of broader representation. The same is valid for the chair of the Steering Council of RTSH.<sup>10</sup> Thus, this regulation did not lift doubts on independence from political factions within the regulators. "The appointment procedure of the members of the media regulatory authority - Audiovisual Media Authority (AMA), provided for by the law, does not fully guarantee their independence."<sup>11</sup>

This inability to agree on a crucial matter of media regulation in a way foretold the battle that was to come on the election of members of regulatory authority. With

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<sup>9</sup> AMI, Albanian Media Newsletter, <http://institutemedia.org/newsletter.html#march>, March 2013.

<sup>10</sup> Law 97/2013, "On Audiovisual Media," Art. 95.

<sup>11</sup> EU Progress Report on Albania, 2013, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/brochures/albania\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/albania_2013.pdf)

the new parliament swearing in on September 2013, one of the first tasks of the Parliamentary Media Commission was to issue the call for proposals for new members of the Audiovisual Media Authority and the Steering Council of public broadcaster. The mandate of all 11 members of the Steering Council was over for more than a year. The regulator of audiovisual media had one member with expired mandates, while there were two vacancies, which were not filled as the then-opposition had not nominated candidates for the post as part of the political decisions it had made at the time. While this should be a routine process, the election of new members for both bodies proved to be a long, difficult, and disputed process.

The Parliamentary Commission on Media for many months could not agree on the validity of term of the AMA chair. The ruling majority claimed that it was illegal for the chair of AMA to hold her position, since her mandate was over and she had not been re-elected as an AMA member, accusing the opposition of blocking the process of turning the regulator to a normal process. On the other hand, the opposition argued that the ruling majority was violating the law, with the aim of politically controlling the regulator. In short, the political battle and prolonged fight delayed the election of new members, paralyzing both AMA and Steering Council, and consequently delaying digital switchover and other processes. The Parliament finally elected the chair and two new members of the regulator, only with ruling majority votes. The opposition condemned the process, stating that the law clearly

demands that the short listing of candidates is done jointly by both ruling majority and opposition MPs. In addition, the opposition also contested the election of the chair, claiming his past experience as director in one of the main commercial multiplexes in the country was a sign that both the government and commercial media were seeking to capture the regulator. The matter is currently still disputed at the administrative court. In this context, two of the remaining members of AMA appointed by the opposition have refused to participate in decision-making until the court rules on this matter, which means that AMA has lacked the quorum to make important decisions that require five votes. This has negatively impacted digital switchover process, since it is one of the reasons that impedes AMA to decide on granting licenses for commercial multiplexes, as well as other decisions.

The situation for election of Steering Council of RTSH has been similar. The Parliament elected on December 4, 2014, in a plenary session five members of the Steering Council of public broadcaster RTSH. The new members were voted only by Members of Parliament from the ruling majority, as the opposition MPs continued to boycott all parliamentary activities. The opposition also took this matter to court, but decided not to pursue it further and proceeded with completion of the Steering Council and election of its chair. However, the Council has reached a deadlock with regard to election of the new General Director of RTSH. Both the delay in electing Steering Council members and the deadlock over election of new

director have also affected ability of RTSH management to approve documents needed to proceed with digital switchover process.

***- Problems in digitalization of public broadcaster***

The public broadcaster is supposed to have a leading role in the digital switchover process. Apart from the limited functionality of Steering Council and consequent delays, a major problem in the process of digitalization of RTSH has been the legal dispute over the tender for digitalization of its two networks. The Strategy for Digital Switchover allocated two national frequencies to the public broadcaster, out of eight assigned to Albania. Unable to build the two networks on its own, the Ministry of Innovation and ICT published a request for proposals on April 12, 2013, with the subject “For the Finance, Design, Supply, Installation, Training and Transfer of a DVB-T2 Network for the Republic of Albania.” The aim of the tender proclaimed by the Ministry was to select a company that would build the digital networks that would then enable the public broadcaster to transition its broadcasting from analogue to digital networks. The tender was carried out amid disputes of the opposition that it was not appropriate to undertake projects of such a scale immediately before the election period. Four companies applied for this tender and the Ministry proclaimed two winners in June through Order no.11, dated 17/06/2013: Rohde & Schwarz and Ericsson AB. According to the Ministry, both companies

initially expressed their willingness to carry on with the contract, but Rohde & Schwarz company sent e-mails to the Ministry on July 2013, complaining on the procedure. The Ministry decided to exclude the company from the tender after failure of the company to clarify its position upon the Ministry's request. Following the exclusion, the company filed a lawsuit on August 15, 2013 at the Court of Tirana, which rejected the request four days later. The Minister, faced with this situation and with an imminent rotation of power after general elections of June 2013, issued Order no.15, dated 29/08/2013, an order that annulled the tendering procedure altogether.

The company Rohde & Schwarz filed another lawsuit, challenging both the cancellation and the proclamation of two winners of the tender, which the Court of Tirana accepted with Decision no.12316, dated 09.12.2013<sup>12</sup>. The court decision also ruled that the order the Ministry issued, proclaiming two bidders as winner of the tender, was illegal and consequently also repealed the order that annulled the tender procedures in August 2013. The Ministry, which by the end of 2013 had been transformed to Ministry of Innovation and Public Administration, appealed the court decision. The Court of Appeals ruled through Decision no.2712, dated 18.06.2014<sup>13</sup>, that the matter had to be transferred to Administrative Court of Appeals, as it fell under its jurisdiction. At this point

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<sup>12</sup> [www.gjykatatirana.gov.al](http://www.gjykatatirana.gov.al)

<sup>13</sup> <http://www.gjykataeapelittirane.al/>

the Ministry decided to stop appealing the case and the Administrative Court of Appeals issued Decision no.3407, dated 15.09.2014<sup>14</sup>, which ruled that the case was closed. Following the court decision, Order no.3663, dated 29.09.2014, was published in the Bulletin of Public Procurement no.41, dated 13.10.2014<sup>15</sup>, which proclaimed the company Rohde & Schwarz as the sole winner of the tender to build the digital networks of public broadcaster RTSH.

After these procedures, the final decision of the Ministry was challenged by the other bidder of the tender, the company Ericsson AB, as incompatible with the Constitution of Republic of Albania. The Constitutional Court decided to reject the lawsuit. Decision no.195, dated 05.12.2014<sup>16</sup>, stated that Ericsson AB company was seeking to repeal a court decision that resulted from a process the company had not been part of and therefore in no position to appeal the decision. The court stated that the company also had not exhausted all other court instances and hence it should not file the request with the Constitutional Court.

After this legal odyssey was closed, RTSH and the government signed the contract with German company Rohde & Schwarz on March 19, 2015. However, in view of the delays in constituting the new Steering Council and in electing new General Director, as well as the delay caused by the legal dispute, the building of digital networks has

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<sup>14</sup> <http://www.gjykataadministrativeapelit.al/>

<sup>15</sup> [www.app.gov.al](http://www.app.gov.al)

<sup>16</sup> <http://www.gjk.gov.al/>

been delayed considerably, affecting not just RTSH, but also local broadcasters that are supposed to be hosted in these networks.

### ***- Licensing of commercial digital networks***

In addition to the limited functionality of regulatory authorities and the delay in signing the contract for building digital networks of RTSH, the process of licensing commercial digital networks has been far from smooth. With decision “On licensing of digital networks and their programs, through the beauty contest procedure,” dated July 2, 2013, the regulator AMA opened the call for licensing of digital commercial operators, inviting existing digital multiplexes to apply. The three operators, Digitalb, Top Channel, and Media 6, filed a lawsuit contesting Article 16 of this regulation. They also demanded that based on the invalidity of this article, the court should by default declare invalid the whole decision. The operators claimed that AMA had acted beyond its competencies in setting financial measures the operators must fulfill in order to receive a license. AMA argued that the operators had not exhausted all legal measures and that they first should have gone through administrative complaint. On July 30, 2013, the court refuted AMA’s arguments and decided to accept the lawsuit of Digitalb, Top Channel & Media 6 and suspend the regulation<sup>17</sup>. The court of first instance decided that AMA did not provide sufficient proof

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<sup>17</sup> [www.gjykatatirana.gov.al](http://www.gjykatatirana.gov.al)

of these claims. As a result, the regulation and procedure on licensing of digital networks remained suspended until the final court decision.

AMA appealed the decision of the court to suspend the regulation at the Court of Appeals on August 5, 2013, and later at the Supreme Court. The Supreme Court demanded completion of the legal dossier by the first-level court, which replied that currently the dossier was being examined by the first instance of the Administrative Court. This was after the decision of the Court of Tirana made on January 21, 2014. The court of first level had ruled that the object of this lawsuit was related to administrative procedures. As a result, the court considered itself as incompetent to deal with the case, sending the acts to the competent court, namely the first level Administrative Court of Tirana. After reviewing the complete legal acts of the dossier, the Supreme Court ruled that the decision of the first instance court to refuse AMA's request to consider the operators' request an illegal one, in view of failure to exhaust administrative complaint, was valid.

Parallel to the rulings of the Court of Appeals and Supreme Court, following the Court of Tirana ruling dated January 21, 2014, the lawsuit of Digitalb, Top Channel & Media 6 vs AMA was examined in the first instance of the Administrative Court and then by the Administrative Court of Appeals. The latter accepted the lawsuit with Decision no.17, dated October 8, 2014<sup>18</sup>, by annulling

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<sup>18</sup> <http://www.gjykataadministrativeapelit.al/>

article 16 of the regulation and enforcing the suspension of the licensing process.

Finally, the lawsuit and the validity of the Decision of the Tirana Court to transfer the lawsuit to the Administrative Court was also considered by Court of Appeals. On October 17, 2014, this court confirmed that the Court of Tirana was right to transfer the lawsuit, as it lacked the competence to rule on this matter. Furthermore, the decision was made after both AMA and State Advocate representatives declared that two instances of the Administrative Court had ruled on this matter, considering it as a closed matter. As a result, after these court rulings, and with the election of new members of AMA that had taken place in the meantime, the regulator decided to cease legal proceedings and amend the regulation. However, although the regulator was free to proceed, more than a year was lost in legal disputes over this matter.

The regulator finally revised the regulation on licensing, and after consultation with existing operators, opened the call for applications in April 2015<sup>19</sup>. The call was contested by both Vizion+ and Tring TV, seeking to suspend the procedure. The matter is currently at court and Tring, although invited to participate, did not submit an application. Four historical operators participated in the call, the two national TV stations, TV Klan and Top Channel, and the two existing digital multiplexes: Digitalb and Supersport. It remains to be seen whether AMA will

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<sup>19</sup> [www.ama.gov.al](http://www.ama.gov.al)

be able to make a decision on the licenses, in view of the missing quorum in its Board.

Furthermore, even with the four applicants, there is a problem in relation to their ownership structure vis-à-vis the legal requirements imposed in this respect. Since three of the four operators have more or less the same owners, the current ownership limitations in the Law on Audiovisual Media are an obstacle for obtaining the respective licenses. According to Art. 62 of Law on Audiovisual Media, “no natural or legal, local or foreign person shall have more than 40 percent of the general capital of a joint stock company that holds a national audio broadcasting license or a national license for audiovisual broadcasting.”<sup>20</sup> In addition, the owner of a company with a national license can own no more than 20% of another company that owns a national license. This regulation clearly limits the number of national licenses AMA can issue to the current applicants, with the current ownership structure.

In this context, Taulant Balla, MP of the Socialist Party, on April 24 submitted a proposal for amending the Law on Audiovisual Media to the Parliament. The proposed amendment contains only the following article: “Article 62 of law no. 97/2013 ‘On the audiovisual media in the Republic of Albania’ is repealed.” The amendment proposed by Balla claims that this article has created barriers that should be eliminated, as they pose “a real

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<sup>20</sup> Law 97/2013, Art.62.

obstacle to the development of broadcasting.” According to the report accompanying the proposed amendment, the barriers of ownership are unnecessary and it also claims that “under the current situation, fair and effective competition is seriously violated, the quality of audio and audiovisual services might decrease, and one of the fundamental principles on which the AMA should exert its activity, namely that of guaranteeing equal access and non-discriminatory audio and audiovisual media market, may be violated.” The removal of such limitations would certainly resolve AMA’s dilemma in granting a limited number of licenses to current applicants. However, it would also lead to a clear concentration of ownership for the digital networks that will be licensed as well as no guarantee for media pluralism in future licensing process. The opposition publicly opposed this proposal, claiming that the proposal aims to pave the way for establishment of monopolies in the media market. Ruling majority and opposition MPs in the Parliamentary Commission for Media decided to seek the assistance of OSCE, European Commission, and Council of Europe before making a final decision on the proposed amendment and a recommendation for voting in plenary session. It remains to be seen how the parliament and other actors will treat this delicate issue, with important consequences to media pluralism. However, the ownership regulation is yet another factor that might further delay the long overdue digital switchover process.

### ***- Local broadcasters in the digital context***

An important part of the media landscape are also the local media, currently broadcasting mainly in analogue, given their significance in media pluralism and the role they have within their communities. Based on the Strategy of Digital Switchover, there are three options for local operators in the wake of digital switchover:

1. With the first option, the local broadcasters will be available through the platform that is being built by public broadcaster RTSH;
2. Another option is for local broadcasters to come together and apply to build a local platform of their own, but 70% of the local operators in the area have to agree in order to apply;
3. If none of the first two options work, the regulator opens the race to build a network that local operators will use.

The Strategy defines these three particular options, but states that other options are by no means excluded. In fact, as a public meeting held in early June 2015<sup>21</sup> highlighted, another option might be for local broadcasters to make use of the networks built by the other commercial operators, namely the existing multiplexes and the two national commercial televisions that have applied to receive a national license for building a platform.

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<sup>21</sup> AMA meeting with local operators, June 1, 2015.

In this respect, a key factor will be the fee applied to use the network that the public broadcaster is building. According to the Strategy, the fee calculated in 2012 is estimated to be 2,885 Euro per month for each operator that will use the network of the public broadcaster. Current AMA management claimed that there is no sufficient transparency in the Strategy on how this fee was estimated and it seems rather high for local broadcasters to afford. As a result, the public broadcaster will revisit the fee and present new options and fees for those local broadcasters wishing to be hosted in public network. Yet, this episode suggests again the importance of the digitalization of public broadcaster, in order to pave the way for the next steps in the process and ensure fair and equal opportunities for the digital broadcasting of local operators, too.

### ***- Responsibility and Transparency to the Public***

A highly important element addressed in the Strategy of Digital Switchover is the issue of access and affordability in the framework of digital switchover. The Strategy underlines the need for equipment for the particularly poor strata of the population, indicating state subsidies as a necessity.<sup>22</sup> In addition, the Strategy suggests use of universal decoders. In this framework, the Council of Ministers approved on June 3 a decision aiming to regulate

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<sup>22</sup> The Strategy, p.42.

technical rules on TV sets that will be sold in the market, aiming for them to be of the compression standard DVB/T2/MPEG4 and using a common interface<sup>23</sup>.

Although the Strategy underlines the need for a public awareness campaign, the public is still entirely uninformed about what digital switchover is. So far this debate has been limited to inner media circles and public remains largely unfamiliar with the process and the expectations. In fact, there has been almost no discussion in the media regarding digital switch-over. Discussions and hearing sessions in Parliament have been reported mainly by the media from the same group as the existing platforms, in accordance with the tone or interest that each company has on digital switch-over. However, there has been no in-depth program or discussion organized beyond news reporting. This discussion has been seen as more of an internal development within the media companies or the public broadcaster, rather than a process that will affect every citizen. Public information campaign is forecast in the Strategy and is also on AMA's work plan, but so far preparations for this component have not started.

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<sup>23</sup> Council of Ministers Decision no.480, date 3 June, 2015.

## Conclusions

The digital switchover process in Albania is clearly delayed. The intertwining of complex business interests, the failure of the regulator to act, legal disputes, and slow digitalization of the public broadcaster are only some of the factors that have affected the progress of digital switchover. Reflecting the dynamics and interests that prevail in the media scene, it was unavoidable for digital switchover to escape these trends. However, since the process is practically still at its start, it needs further monitoring on how particular actors, institutions, and rules will affect the outcome and on whether the process will be fair, transparent, and following the public interest.