

Media Ownership, Independence, and Pluralism

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Publisher:

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This publication has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of the Albanian Media Institute and can under no circumstances be regarded as reflecting the position of the European Union.

INTRODUCTION

This research is part of the project “Media freedom, media transparency, and media independence in Albania,” implemented by the Albanian Media Institute with the financial support of the European Union in May-December 2007. The aim of this publication has been to map the media ownership in the country, including the legal framework and implementing mechanisms, the structure of the media ownership and the main schemes in this regard, including also their impact in media pluralism and independence.

In the process of drafting this research, the main aim of the work group has been to make use of resources that can be considered reliable, such as official data, data from other sources deemed reliable, personal interviews with media owners and directors, market research, etc. Unfortunately, Albania has significant shortage in terms of studies on audience, readership, media popularity and credibility, advertising data and other similar information, which has had its toll on the overall quality of the report.

Media Ownership, Independence, and Pluralism

1 INTRODUCTION

After seventeen years of struggle for democracy and its consolidation, Albanian media has turned into an important actor in the country's progress. However, the activity of media businesses themselves can hardly be called transparent. In addition, there are problems with legislation, its implementation, the obtaining of data on the media and their transparency and reliability. Market analysis is by no means a familiar practice in Albania, and media businesses operate in the mist, with no data on their efficiency, apart from gut feelings. This paper aims to provide information and analysis of the existing legislation on media ownership, its implementation, the media landscape, its ownership structure, and the evident or foreseeable consequences.

2. LEGISLATION

Since the early nineties, after the fall of communism, Albanian media, like the rest of society, have been faced with a freedom never experienced before, and with equally unfamiliar problems. The advent of a new political system brought about the emergence of new media and, consequently, the need to regulate this chaotic situation.

2.1 PRESS LAW

The Parliament elected in 1992 adopted the Law on the Press. The initiative to draft such a law came from the Government, and owing to the previous legislative vacuum in this sector, all eyes were turned towards other countries' experience. In this context, the Friedrich Ebert Stiftung Foundation took the initiative in presenting the Gov-

ernment with examples of such a law as implemented by three German states, with one of these being eventually chosen. The Albanian law was modeled after the German state of Westphalia law and there was little effort to adjust it to the Albanian context. The input of the persons most affected by this law, namely the media community, was not considered an option at all while drafting the law. As a result, the media community soon faced what they considered to be repressive legislation. This law was annulled entirely by another legislature in 1997, and a new law came into effect. At present the print media is regulated by the Law on the Press which comprises only the following vague and quite general statement: "The press is free. Freedom of the press is protected by law."¹

The Parliamentary Commission on Media, the journalistic community, legal advisors, and other interested persons have at certain points since 1997 debated the need for a detailed press law and the potential shape and effect it can have on media development, and thus on the consolidation of democracy. There was a debate on one such bill in 2001, when many media representatives refused to participate, considering that the bill provided an over-regulated media, with considerable potential for restrictions. The bill provided for the establishment of an Order of Journalists that would serve as a regulator of the media community and its activities, a concept which was strongly rejected as it was considered a structure that must be established according to the free will of journalists, and not engineered by the Parliament or legally obliged to report to the Parliament. According to this provision all journalists would be obliged to be members of this Order and to adhere to its regulation.

The process of drafting a new law on the press is ongoing in view of an overall attempt to harmonize media legislation with European Union standards. However, the trend of *laissez-faire* in the field of journalism has triumphed so far and (attempts at) self-regulation rather than too much regulation has prevailed. In this context the print media seems to enjoy a greater freedom than in the early nineties, but at the same time working on grounds that leave little room for scrutiny of its activities and accountability from its side.

¹ *Law No.8239, "On Press," 03.09.1997.*

2.2 BROADCAST MEDIA REGULATION

In contrast to the print media, the broadcast media is regulated by a fairly detailed Law on Public and Private Radio and Television, amended five times and recently by the Law on Digital Broadcasting, as well. In order to guarantee its own implementation, the law provides for a regulatory body, the National Council of Radio and Television (NCRT), which is supposed to be an independent regulatory and monitoring structure.

The regulatory authority is one of the areas that is undergoing significant change in the Albanian media scene. Until 2006 the Law on Radio and Television stated that the NCRT was an independent body, consisting of a chair, a deputy chair and five other members, elected on the basis of their experience and qualifications in the social, judicial, economic, educational, mass media, radio, and television fields. The President of the Republic proposed one candidate, while the other six candidates were proposed by the Parliamentary Standing Committee on the Means of Public Information (hereafter, the Parliamentary Media Committee). Parliament selected the members from among the candidates and elected the chair by simple majority voting.² The law provides the NCRT with the authority to transform the general rules provided by the law itself into further specific obligations for broadcasting operators.

In February 2006 the government proposed an amendment to this law to the Parliamentary Media Commission, aiming to cut down the number of members of NCRT from seven to five and change the formula of proposals for candidates. Claiming that the formula of balanced representation of parliamentary parties in the regulatory body had clearly not worked so far, the government's draft law proposed a greater involvement from civil society, media associations, academia, and other similar stakeholders in proposing a pool of candidates for the regulatory authority.

² See OSII/EUMAP "TV Across Europe: Regulation, policy and independence," 2005, chapter on Albania, section on regulatory authority. (Hereafter OSII/EUMAP, Albania)

While everybody agreed there was a strong need for reform in this area, many voiced the concern that this proposal did not guarantee any improvement and it should not come from the government: "As a member of the Parliamentary Media Commission I believe that changes need to be made in this area, but sneaking in this proposal, especially from the government, and particularly when we are talking about the fourth power that is media, leaves a bad taste."³ In addition to the concern on the content of the draft law, a major objection was the lack of a process of informing, discussing, or consulting with stakeholders previously to taking the draft to the parliament, such as TV stations, journalists' associations, civil society, experts in the area, etc.

The current law was approved after heated debates on May 2006 and was approved again in June, after it was returned to the Parliament by the President, who refused to decree it. The members of NCRT and those of the Steering Council of TVSH were elected at a time when the crisis between the majority and the opposition reached its peak, because of two main reasons: the amendments to the law on broadcasting and the electoral reform. In view of the political crisis and having in mind the upcoming elections, the two sides reached an agreement on July 30, which also had its impact on the law on broadcasting. According to this agreement, the members of NCRT would go back to seven, with the two new members coming from proposals of civil society, but should be selected by the opposition.⁴ However, for various reasons, it took one year to fulfil the agreement and to elect the missing members of the regulatory bodies.

2.2.1 Ownership provisions in the law

Since the law on broadcast media sets forth criteria for the licensing and activity of radio and TV stations, it also contains a number of provisions regarding media ownership in the field of broadcast media.

³ Nikolle Lesi, "Should we deal with the law on broadcasting?", *Koha Jonë*, 10.02.2007, p. 3.

⁴ Agreement of July 30 2006, *qtd. in Denion Ndrenika*, "PD-PS agreement is reached; opposition demands are satisfied," *Shekulli*, 31.08.2006, p.3.

The same provisions are also valid for digital broadcasting.⁵

First of all, the law states that persons deprived of the capacity to act by a court ruling, political parties and organizations, religious communities and associations, local government authorities or other state authorities cannot obtain a broadcast license. Also excluded from applying for a license are industrial organizations, banks, and credit institutions. According to this law, broadcasters can obtain two kinds of licenses depending on their coverage: local and national. The criteria to be met for national licenses are stricter than those for local or regional ones.

More specifically, the holder of a local license can be a natural or a legal person, with no limitation imposed on the establishment of a company. The law prohibits the granting of more than two local broadcast licenses for the same territory, be it a radio or a television channel. However, the same broadcaster can obtain both a radio and a TV broadcast license. A natural person may not be the owner of a station that covers an area of more than 200,000 inhabitants. There is no limitation on foreign ownership; the shares of a local medium can be owned one hundred percent by foreign owners, but again, they cannot own more than two local media stations.

On the other hand, the limit on ownership stake in a national radio or TV station is 40 percent; thus a national radio or TV station must have at least three owners, either legal or natural persons. The owners of a national radio or television outlets are forbidden to possess shares in another national radio or television enterprise, in whatever amount. In addition, it is forbidden for an owner of shares in a national broadcasting station to obtain a local broadcast license. This is a provision that aims to prevent concentration of national media and monopolies, thus safeguarding media pluralism and diversity, as well as a lucrative media market.

Regarding the owners of national media, there is no limitation at all regarding foreign ownership, apart from those that apply to Albanian owners of national broadcast media, namely the 40-percent limit and the other criteria of ownership.

Apart from the limit on ownership stakes, a national media company

⁵ Law No. 9742, "On Digital Broadcasting," 28.05.2007, art. 13.

must be registered as a joint stock company. No natural person can obtain a national license. The main aim of this limitation on ownership of national broadcast media is that legal persons are supposed to have greater accountability regarding VAT, other taxes, and potential remuneration to third parties, as well as better control of the quality of programming in view of the manner of organization of the joint stock company.

2.2.2 Implementation of the law

The body that sees to the proper implementation of the law is NCRT, which checks the data provided by the license applicants and supervises the implementation of the above-mentioned rules. It is authorized by law to determine the minimum amount of capital a license holder should possess. So, applicants for a national radio license should possess capital of no less than ALL 20,000,000, while applicants for a national TV station should possess no less than ALL 100,000,000.⁶ The entry barriers for a local broadcast license vary in accordance with the population reached in the area covered.

In cases of changes in data on ownership structure provided by the applicants or licensees, NCRT should be notified 15 days in advance. NCRT can oppose the change in case it violates the law. In other words, in the case of a merger of two broadcasting companies or a broadcasting company with another media enterprise, the approval of the NCRT is required. It may be recalled that according to the law, one person may not hold more than 40 percent of the total capital of a national broadcaster (before or after the merger) nor may the same person be given a license for more than two local transmission areas. Therefore in giving its approval, NCRT should take account of these rules and prevent any occurrence of violation.

NCRT also establishes the annual fees to be paid by the broadcasting operators. In general it can be said that the floors imposed on the initial capital of applicants for broadcast licenses plus the taxes and annual fees paid to NCRT and other hindrances constitute relatively high entry barriers for the de-

⁶ NCRT Decision no.10, 15.05.2000, amended by NCRT Decision no.52, 16.07.2001.

velopment of new media. However, as noted in the description of the media landscape, this has not been a hindrance in this regard, quite the opposite: the number of electronic media has steadily increased, as the section on media landscape reveals.

2.3 OTHER RELEVANT REGULATION

2.3.1 Commercial law

The activity of media companies is also regulated by the Law on Commercial Companies, applicable to media companies the same as to all other registered companies. More specifically, the organizational structure of a joint stock company is supposed to provide a relatively stricter system of checks on its welfare and representation of the interests of all sides. So, the General Assembly appoints two-thirds of the Steering Committee, while the employees of the company appoint one-third. The Steering Committee, in turn, appoints the directors of the association. However, so far these controlling mechanisms seem to be a mere formality in the Albanian media companies.

According to the same Law on Commercial Companies, the responsibility of the members corresponds to the contribution of their initial capital in both joint stock companies and limited liability ones. However, the minimal capital requested by law for joint stock companies is ALL 2,000,000, while the minimal amount of capital for limited liability companies is ALL 100,000⁷. As demonstrated above, the NCRT may impose different minimum amounts of capital. At the moment, the Ministry of Economy, Trade, and Energy has started redrafting the law in view of the overall business reform. It remains to be seen how the new developments will affect the media business in this regard.

Independently of the manner of organization or registration of a company, since June 2007 all media companies are forced by law to register their company and ownership changes in the National Center of Registration,⁸ in addition to the obligation of the private broadcast media to report the changes to the NCRT.

⁷ Law No.7638 "On Commercial Companies," 19.11.1992.

⁸ Law No.9723, "On the National Center of Registration," 03.05.2007.

2.3.2 Competition law

Another law related to media regulation is the Law on Protection of Competition. The law states that all agreements that intend to prevent, restrict or distort competition are forbidden. Some examples of such agreements include directly or indirectly fixing prices, limiting or controlling production, markets, etc, sharing markets or sources of supply, etc.⁹ However, the law also stipulates some exemptions where these kinds of agreements can be allowed, mainly on grounds of economic efficiency, such as reducing costs of production and distribution, promoting research and development, and allow consumers a fair share of resulting benefit, provided that all of these do not substantially restrict competition.¹⁰

The regulation on competition seeks to secure fair competition by assessing dominant positions and monitoring them. Some of the tools that the law stipulates for appraising dominant position include market share, market entry barriers, potential competition, etc.¹¹ The overall position of the law on concentrations is that they are not forbidden per se; rather, their abuse is prohibited and punishable by law¹². Instances of abuse provided by law include:

- direct or indirect imposition of unfair prices or trading;
- limiting production, markets or technical development;
- creating conditions for competitive disadvantage;
- refusal to deal or refusal to license, etc.¹³

Exemptions may take place only for technical reasons or legal commercial reasons.¹⁴

⁹ Law No.9121, "On Protection of Competition," 28.07.2003, art. 4.

¹⁰ *Ibid*, art. 5.

¹¹ *Ibid*, art. 8.

¹² Lindita Milo, "Politika Kombetare e Konkurrences", available at http://www.caa.gov.al/file/Politika_Kombetare_Konkurrences.ppt

¹³ Law No.9121, "On Protection of Competition," 28.07.2003, art. 9.

¹⁴ *Ibid*.

According to the law, concentrations occur in the following cases:¹⁵

- when the combined worldwide turnover of the participating businesses in a group exceeds ALL 70 milliard, or when the domestic combined turnover of businesses is more than ALL 800 million;
- when the domestic turnover of at least one participating enterprise is more than ALL 500 million.

Any agreements that lead to the above-mentioned cases and hence to concentration, should be notified to and approved by the Authority on Competition. In cases when the concentration is expected to create or strengthen a dominant position by one or more of the enterprises involved, the Commission on Competition can prohibit the agreement that would lead to this concentration¹⁶.

2.3.3 Implementation of the law

The supervisory body that implements the Law on Protection of Competition is the Authority on Competition (AC,) while the Commission on Competition is its decision-making body. Duties of AC include the following: drafting national competition policy, issuing decisions, by-laws, and guidelines based on this law, giving evaluations or recommendations to central and local administration and other public, private, or non-for-profit bodies that may seek advice in matters of competition.

So far the AC has provided its expertise with regard to two amendments on media that have been discussed in the Parliamentary Media Commission: the discussion on newspaper prices in 2004 and the law on digital broadcasting in 2007. The first draft contained two controversial articles that sparked debate within the media community. One of them aimed to regulate the market of daily newspapers. Alleging that some papers are sold at below production cost, some MPs and publishers intended to establish a floor price. The other article was intended to prohibit publishers who sell their papers below the

¹⁵ *Ibid*, art. 12.

¹⁶ *Ibid*, art. 13.

floor price from participating in public tenders. The AC criticized the articles, stating: “The owners have the right to set prices as they like. In many countries in the world it is common practice to offer free newspapers, independently of the high cost of their production.”¹⁷

Media representatives were divided over their stance on the restrictions. “Through these amendments the state is trying to halt the private enterprises that have invested millions of ALL in the media industry in recent years,”¹⁸ said Koco Kokedhima, owner of Spekter jsc. Publishing Group. There were also voices in favor of the Parliamentary initiative, including Nikolle Lesi, then-publisher of the daily Koha Jone, and Erjon Brace, then-editor-in-chief of the daily Zeri i Popullit. “The aim is to purify, to the extent that we can, through legal means, the fourth estate, the media sector, which has become dominated by illegal businesses and by businessmen that have established media outlets just to protect their interests, rather than to independently inform.”¹⁹ The articles did not pass in the Commission, but a review of the law on press is ongoing.

The second case of involvement of AC on competition in the media was the opinion it provided in the discussion of the Law on Digital Broadcasting in May 2007 upon the request of the Parliamentary Commission on Media. The AC’s stance on the bill focused on two concrete aspects: the need to stress that abuse with dominant position is prohibited rather than the dominant position per se, and the suggestion to leave out the proposal to define a ceiling share of the advertising cake²⁰. Both these suggestions were reflected in the bill and current law on digital broadcasting. Moreover, upon AC’s suggestion, this law states that in addition to NCRT, AC also has to approve any change in ownership or granting of new licenses in the digital broadcasting market, so that competition in this area can be secured.

¹⁷ *Authority on Competition, quoted in IREX, Media Sustainability Index 2004, available at <http://www.irex.org/msi/2004/MSI-2004-Albania.pdf>*

¹⁸ “Tryeza per median kunder amendamentit Brace-Lesi,” [Roundtable on the media against the Brace-Lesi amendment], Shekulli, 08.07.2004, p.5.

¹⁹ “Brace-Lesi: Media-Biznes, nuk terbigemi nga propozimi, (Brace-Lesi: Media-Biznes, we will not withdraw our proposal), Korrieri, 26.01.2005, p.14.

²⁰ *Authority on Competition, “Opinion on Bill on Digital Broadcasting,” 22.05.2007, available at <http://www.caa.gov.al/file/leter-komsioni-medias.doc>*

3. MEDIA LANDSCAPE AND OWNERSHIP

3.1 A CHANGING LANDSCAPE

The landscape of the media in Albania has changed dramatically since the early nineties, and has continued to present a dynamic picture even seventeen years later. As a matter of fact, after almost two decades of developing private, allegedly independent, media in the country, the number of media outlets has been increasing rather than leveling off and the consolidation of the media scene seems to be a remote future. At the moment, more than 200 newspapers and magazines are published in Albania, including general and specialized publications²¹. The list of individuals/companies licensed to broadcast is also extensive: 46 local radio stations, 2 private national radios, and one public national station, in addition to 68 local TV stations, 44 cable TV stations, 2 national ones and a satellite commercial one, apart from the public television.²²

3.2 OWNERSHIP STRUCTURE OF THE MAIN MEDIA/ GROUPS

Unfortunately, the influence of the main media groups cannot be translated into their market shares. There are only sporadic audience surveys, which do not include all of the territory, and there is no data on circulation and readership apart from that which the owners and publishers decide to provide of their own will. In this context, it is very difficult to determine in a clear, scientific way which is the most influential or popular medium, and more importantly, what is its profit from its activity.

However, in view of this media landscape rich in numbers, shedding light on who owns what in Albanian media scene is an important factor in realizing the dynamics of its development. The following sections

²¹ National Library, *Section on Periodical Publications*, October 2007.

²² NCRT, *List of Operators*, available at <http://www.NCRT.gov.al/content/view/10/6/>

identify the main media outlets/groups in the country and their respective owners and backgrounds. Given the lack of accurate and systematic audience and circulation data in the media landscape, the selection refers to common perception in the media community regarding each media's influence and significance against the general background.

3.2.1 Spekter group

Among daily newspaper companies one of the most prominent group is Spekter jsc., owned 100 percent by Koco Kokedhima.²³ This company owns the dailies Shekulli (considered to be the one with the largest circulation by the journalists' community), sports daily Sporti Shqiptar, an online economic newspaper, Biznes, as well as the monthly magazine Spekter. In addition, Spekter jsc. also owns Botime Max, a publishing house that distributes books along with or separately from newspapers.

Apart from this, Kokedhima indirectly owns shares in a national radio station, a television station, and an advertising agency. Although he does not rank among the auctioneers of neither TV A1²⁴ or national +2Radio,²⁵ the links and advertisements in their web pages or broadcasting are mainly from Spekter jsc. In addition, the same inner circle of general administrators seems to change hands in these media with those of Spekter jsc²⁶. Media operations are not the only activities on which Kokedhima's business focuses. Other companies he owns deal with construction, advertising or graphic work, Internet services, oil refining, etc.

3.2.2 Klan GROUP

Until two years ago, another important group was what could be defined as the Klan group, named after the national TV station and

²³ National Center of Registration, *November 2007*.

²⁴ The only shareholder is Endri Puka, according to NCRT, *Department of Jurisdiction and Licenses*, November 2007.

²⁵ The shareholders are: Mensur Rushiti (40%), Janaq Jorgji (40%), and Myftar Troka (20%) according to National Center of Registration, *November 2007*.

²⁶ National Center of Registration, *November 2007*.

the magazine this group owned. More specifically, company Media 6 jsc., owned national TV Klan, and was made up of Julien Roche, a French citizen, Marsel Skendo, and Aleksander Frangaj. The first two are businessmen who own other companies. Frangaj was an equal-share partner in Koha company, which owned the best selling newspaper until the late 1990s. Frangaj sold his part of the company to his partner in order to join the Klan group. The Media 6 Jsc. also owned 51 percent of Media 5 ltd., which publishes daily Korrieri, and Klan, which has for a long time been among the most reputable general weekly magazines on the market. The remaining 49 percent of this company was distributed as follows: two prominent journalists and columnists owned 17 percent each; another seven percent owner was the then-director of Korrieri, a well-known journalist, and the remaining eight percent owner was a web designer. This was also one of the rare cases in Albanian media where the owners of shares were also employees.

However, this was not the case for long, as the Klan group decided to split and make major changes in their ownership structure. At the moment Media 6 company and hence national TV Klan is owned by Aleksander Frangaj (40%), Alba Gina (40%), and Ervin Gjikola (20%)²⁷, and the latter two had not previously appeared in the media scene. It should also be mentioned that Aleksander Frangaj turned to his first media, daily Koha Jone, where he owns 90 % of the company, while Blendi Fevziu, well-known journalist, owns the remaining 10% of Koha Jone ltd.²⁸

In addition, Media 6 jsc. is no longer owner of Media 5 ltd, which publishes daily Korrieri and weekly magazine Klan. The sole two owners of this company are now Marsel Skendo and Julien Roche. As is often the case with the media owners, their businesses date back to a time before the establishment of the media outlets. So, the cooperation between Roche and Skendo dates back to the time of the establishment of the first private Albanian airline company, Ada Air, in which they had equal shares and which closed in 1998. Other businesses include the FABC company which is again a joint and

²⁷ NCRT, *Department of Jurisdiction and Licenses, November 2007.*

²⁸ *Interview with Blendi Fevziu, November 26, 2007.*

equal-proportioned cooperation between the two. This firm, apart from trade and other activities, owns 70 percent of the shares in a company called Independent Albanian Economic Tribune, which publishes daily Albanian Daily News. This is a daily paper in English, targeted at foreigners only, and the most expensive one in the market. Other businesses have also included publishing and trade, postproduction, etc.

3.2.3 Koha group

One of the most visible elements of change in ownership schemes of Albanian media is the exit from media owners' group of Nikolle Lesi. The publishing group Koha owned the daily Koha Jone and the sports daily Sport Ekspres with shares 100 percent owned by Lesi. He also owned 40 percent of Radio Koha while 40 percent was owned by Natalina Lesi, Nikolle Lesi's wife, and 20 percent by Bardhyl Ucaj, its director. Lesi also used to own TV Koha which he sold in late 2002. The Koha group also published for some time a weekly magazine, "AKS," which was considered to be a quality literary and cultural magazine. Unlike the previous groups, the Koha group did not own any business prior to the establishment of media groups.

However, at the moment Koha group as such does not exist, as the ownership of its media has been scattered in various hands. So, Koha Jone is owned by Frangaj and Fevziu, whereas Radio Koha has stopped broadcasting and no longer exists. On the other hand, TV Koha has perhaps the largest number of shareholders among Albanian media: company Media 99 jsc, owning TV Koha, has nine shareholders.²⁹ The shareholders include a mix of politicians, officials, various businessmen, and the owner of a national television station. So, Ardian Takaj also owns 40% of shares in national TV Arberia.³⁰ Although at the moment the license of this television is under scrutiny by NCRT, in view of failure to meet license criteria,

²⁹ *The shareholders are: Lefter Koka, Agron Duka, Armand Duka, Agim Shenedjela, Ardian Takaj, Vladimir Kosta, Arben Ismailaga, Agim Zeqo, and Saimir Mane, with the equal amount of 11,11% of shares, except for Lefter Koka, who owns 11,12%. [National Center of Registration, November 2007]*

³⁰ *National Center of Registration, November 2007.*

the fact that this shareholder has owned both a national TV license and a local TV one remains.

3.2.4 Foreign media ownership

Another group that certainly deserves mentioning is the Edisud jsc., owning a daily, *Gazeta Shqiptare* and *Balkanweb*, an online news agency. This company also owns Edisud Radio-TV Ltd, owning Radio Rash and TV News 24. This company has an all-Italian ownership. The first product that came on to the Albanian market was a daily paper, published before WWII in Albania, banned after the war, and resumed in 1993, to be later followed by other media outlets. The last one to emerge was the TV station, a news channel, whose model was soon followed by other TV stations in the country.

The only other media outlet partly owned by foreigners (excluding Roche's shares mentioned above) is TV Arberia, where British-based company "Apace Media Albania" Ltd owns 20% of *Televizioni Arberia* jsc, while Antoni Bechelev owns 20%.³¹ These are the only cases of foreign ownership in the Albanian media. Unlike in other East European countries, major media groups have not yet started acquiring media shares in the Albanian market.

3.2.5 Top media company

There are other media that fully deserve mentioning, although not classified as a group, or at least not apparently so. One of these is Top Albania Radio, the first private radio station to receive a national license. It is owned 40 percent by Vjollca Hoxha, 40 percent by Zhuljeta Lamaj, and the remaining 20 percent by Zyhra Hamiti³². This is supposed to be the most popular radio station in the country, using state-of-the-art technology, targeted at young people, and heard even beyond the borders, but its owners are virtually unknown. Moreover, they are all women, and that is quite an exception in media ownership structure in the country.

³¹ National Center of Registration, November 2007.

³² *Ibid.*

This radio station shares premises with Top Channel, which until recently was owned only by Dritan Hoxha. This TV station was launched some years ago and has had a remarkable success. This TV station has steadily grown in a quite ambitious manner. At the moment the TV station has applied for national license and the company has changed from limited liability company to that of a joint stock company, owned 40% by Dritan Hoxha, 40% by Albert Sino and 20% by Aurel Baci.³³ Other businesses related to this media-owning group also include a graphic and advertising studio. Before venturing into the media field Hoxha made his way through the coffee trade, establishing almost a monopoly over it in the country.

The name of Dritan Hoxha is also closely linked to Digitalb, the digital terrestrial and satellite platform that started operating in 2004. The development of this platform and its penetration among the population has been swift, although controversy has not been lacking. At the moment it has no rivals yet and it has managed to capture a significant share of the market³⁴. The most important stakeholder is Dritan Hoxha with 51% of the shares, followed by "Union Distribution Service Albania" Ltd, and two other businessmen with 10% each³⁵. Involved are also the director of the platform, along with the director of Top Channel and the owner of Top Gold Radio, indicating the ties that link together Top Media Company and the media it possesses. In addition, Digitalb jsc also owns 100% of shares in *Shqip* daily newspaper, increasing thus its clout and potential to influence through the media.

3.2.6 Other important media

Although not clearly classified as a group, there are other important media that definitely deserve mentioning in the

³³ NCRT, *Department of Jurisdiction and Licenses*, December 2007.

³⁴ *Digitalb has boasted an increasingly high number of subscribers: 120,000 as of early 2006, according to Digitalb website, available at <http://www.digitalb.tv/kompanial> (accessed July 31, 2007)*

³⁵ National Center of Registration, November 2007.

overall media ownership scheme. One of these is Vizion Plus TV, which has also just entered the race to receive the national license. The television is owned by Media Vizion jsc, owned by Artan, Genc, and Adrian Dulaku and Matteo Scalco, in equal shares.³⁶ Mostly involved in construction business and graphic design, recently this group has also become interested in print media. At the moment Genc Dulaku shares the company “Albania Vizion” with Ylli Rakipi³⁷. The company publishes daily newspaper Albania.

Another prominent player in the print media market is also Panorama Group, publisher of Panorama and Panorama Sport. These daily newspapers have been among the most successful and have among the highest circulation. Although the ownership structure of the group has changed several times, it is strictly linked to Irfan Hysenbelliu, founding shareholder. At the moment he owns 100% of the shares of Panorama Group, while the two other original shareholders have started two separate daily newspapers, Metropol and Tirana Observer³⁸. This fact is indicative of the trend of blooming newspapers, which remains a defining feature of Albanian media landscape.

³⁶ National Center of Registration, November 2007.

³⁷ Interview with Ylli Rakipi, 27.11.2007.

³⁸ National Center of Registration, November 2007.

4. OTHER RELEVANT ISSUES IN MEDIA OWNERSHIP AND ITS INDEPENDENCE

One of the most peculiar trends of Albanian media landscape is its continuous swelling, both for electronic and print media. Although the figures show that profit is not the norm, very few of these media outlets have shut down. In this context, the main questions that rise with regard to the media landscape are related to issues of media funding and transparency, state’s role and policies in this regard, as well as the journalists’ position in the overall scheme.

4.1. MEDIA FUNDING AND TRANSPARENCY

In this specific context, transparency of ownership, or more specifically, transparency of media funding, remains an unresolved issue, and a much debated one. In the continuous lack of transparency on advertising market, the absence of research in this area, as well as the unwillingness of the media themselves to provide such data, sources of media funding remain unclear. The only official source in this regard continues to be the annual budget the operators submit to NCRT. However, this is yet another problematic issue that the regulator has to tackle. So, in 2006, only 39 operators out of more than 100 that operated in the country in 2005 turned in their annual balance. Although the regulator experienced most difficulties in this regard with operators outside Tirana, where only 30% presented their balance sheet, among the missing balances were also that of the two national commercial TV stations³⁹.

In general, the NCRT reports show that TV operators continue to result with losses; only few of them report some low profit. For example, Top Channel TV reports a loss of ALL 33 million for 2003 and a profit of ALL 4,5 million and ALL 28 million for 2004 and 2005 respectively⁴⁰. Similarly, another important operator, TV VizionPlus, reported a loss of respectively ALL 6 million and ALL 3,4 million for

³⁹ NCRT Annual Report 2006, p.62.

⁴⁰ *Ibid*, p.63.

2003 and 2004, and a profit of ALL 7 million for 2005.⁴¹ However, the NCRT report states that analyzing the TV operators' balances in these three years reveals significant inconsistencies, which lead to suspicions on the fictional nature of some of the figures or reports.⁴²

In fact, transparency of media funding has been the core of debate and controversy, even more than professional coverage in the media, ethical decisions, public interest, etc. This issue became even more controversial when the Prime Minister declared in March 2007 that media in Albania is linked to mafia groups, which use the media in order to demonize certain government representatives and actions, especially its battle against corruption⁴³. After these declarations there was an outcry of media editors and owners, demanding for specific facts and names that Prime Minister had to supply, as well as provide the prosecuting authorities with the necessary information in order to start any lawsuits.

However, as of now, the attempts to shed light on the advertising market and its main trends are pure speculations or estimations, with no systematic research or monitoring of these data. The only effort in this direction was made by NCRT, which made a one-time one-month monitoring of the advertisements in ten TV stations in the period April-May 2005. The monitoring estimated the advertising market to have an approximate value of EUR 21 million for the whole country's operators.⁴⁴ Comparing this estimation to the annual balances as submitted by the televisions, the study indicates that the television stations report 17 to 22 percent of their advertising revenue.⁴⁵ If this is the case, this outcome leads to an understanding that the television stations, at least the monitored ones, guise their tax evasion as losses in most of the cases.

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Albanian Media Institute Newsletter*, available at <http://www.institutemedia.org/pages/news-2007.html#57>

⁴⁴ NCRT, *Estimation of Advertising Revenue from Monitoring, April-May 2005*, p.5. (hereafter *NCRT Ad Study*)

⁴⁵ *Ibid.*, p.6.

The findings of this one-month monitoring were later partly used to impose the heaviest fine ever on the media by the Tax Police in July 2007: Euro 13 million on Top Media Company. The imposition of the fine joined the media community in a common declaration⁴⁶ in support of Top Channel, while the investigation on this matter started in the Parliamentary Committee on the Media as well as by the prosecutor. After this pressure the government seems to have reconsidered the fine. However, this is a clear example how the lack of data, and systematic monitoring and research in this area, as well as absence of transparency by advertisers, media, and government itself can be misused or abused in specific circumstances. This event shows the importance of achieving greater transparency for media funding and operations as the only way to preserve media sustainability, credibility, and independence.

4.2 STATE SUBSIDIES AND ADVERTISING

The Albanian law does not expressly provide any subsidies to media companies in order to protect media pluralism or safeguard independence. However, forms of assisting the media have existed, although not clearly categorized as such. A possible way of subsidizing the media in Albania is leasing state-owned facilities to the media outlets. These facilities provide spacious premises low prices, whereas the rent for private facilities in downtown Tirana is significantly higher. The existing decisions of the Council of Ministers in this area can turn into a form of financial leverage by the Government towards the media and their editorial policy. A potential proof of this trend can be witnessed when the government and Top Media company came at odds when Prime Minister declared that the premises that house the media company would be evacuated and used for some other purpose.

A far more important issue and of particular consequence to the development of an independent media, or lack thereof, is the allocation of state advertising. Until 2006 most of the ads and notifi-

⁴⁶ Available at [http://www.institutemedia.org/documenta/PRESS_DECLARATION_dt\[1\].13_korrik.doc](http://www.institutemedia.org/documenta/PRESS_DECLARATION_dt[1].13_korrik.doc), accessed on 20.07.2007.

cations that fell into the state advertising category were considered public spending and as such were subject to the public procurement laws. However, there were no regulatory bodies to supervise the implementation of these laws, nor the consequent fair distribution of state advertising among the media. The situation was made worse by the legal pitfalls: both the Public Procurement Law and the Law on Expropriation provided that the notifications be published in two national newspapers with large circulations, or in one national and one local newspaper, without defining, though, what “large circulation” means.⁴⁷ The situation becomes even more complicated when considering that there are no surveys or data on the circulation of publications in Albania, in the absence of a detailed law on the press and given the printing houses’ obligation to keep these figures secret. In this way, there was considerable potential for abuse in allocating these ads as a reward for changes in editorial policy, or even using them as a financial threat depending on the editorial policy orientation.

In fact, the allocation of state advertising and notifications for broadcasting and print has not been a transparent process. Quite the opposite: the lack of detailed legal provisions regarding the allocation of state advertising has made it easier for the Government to trade purchases of advertising for favourable coverage⁴⁸. In the past years the decisions to post government ads and notifications in some media outlets, allegedly the most popular ones, in a total lack of transparency on circulation and audience research have led to questions on the government’s vested interests in placing ads in these media.

“The government has the tendency to advertise its enterprises, such as AlbTelekom, the power company, and the state insurance company, through the media outlets that support it. Profits from these advertisements are substantial and viewed as rewards for pro-government coverage. Conversely, the stations and newspapers that support the opposition are punished by being ignored by the state advertisers.”⁴⁹

⁴⁷ Human Rights Watch, “The Cost of Speech,” June 2002, p.47.

⁴⁸ OSII/EUMAR, Albania, section on commercial broadcasters.

⁴⁹ OSII/EUMAR, Albania, section on commercial broadcasters.

There are also no exact and comparative data on the overall spending of state companies or bodies in advertising. The only exception were the figures made public in the NCRT experimental study: KESH, the state-owned company of energy supply, had spent USD 560,000 in advertising for 2004, which was more than triple of what it had spent three years ago; Albtelekom, the state-owned company of fixed telephony, had spent EUR 320,000 in advertising in 2004.⁵⁰ These are the only important advertisers that provided information on their advertising revenue. These important figures for the Albanian market also reveal the importance in receiving these funds for Albanian media. However, the lack of transparency in the whole process has always clouded these funds and questioned the decisions and motivations behind them.

In this context, in March 2006 the government decided to stop allocating government ads and notifications in the media and publish them in the “Bulletin of Official Notifications” instead.⁵¹ This decision channels state ads and notifications to an official bulletin instead of distributing it to the media. This seems to be a sign of government’s will to stop offering rewards in the shape of government ads in exchange for favourable coverage. “This is an important and positive act, even only in its moral signal, even though there are contradictions and the act does not definitely solve the problem of alienation of our media.”⁵²

However, the distinction between ads and notifications is not entirely clear in this decision and does not allow for a clear cut with state ads for the media. According to this government act, advertisements of the state-owned companies and non-for-profit organizations established and supported by state or those of other state bodies are not classified as public notifications.⁵³ As such, they can be the same state ads published or broadcast in the media and this provision might risk countering the whole aim and spirit of this government decision.

⁵⁰ NCRT Ad Study.

⁵¹ Council of Ministers Decision No.176, “On the Publication of Bulletin of Public Notifications,” 29.03.2006.

⁵² Interview with Fatos Lubonja, Standard, 27.05.2006, p.35.

⁵³ Council of Ministers Decision No.176, 29.03.2006, “On the Publication of Bulletin of Public Notifications.”

According to a well-known editorialist “most of the daily newspapers in the country are in coma, while television stations’ audience has polarized, resulting into most of the peripheral televisions that existed in the large media chorus going out of the market.”⁵⁴ However, in the overall absence of transparency of the media market as a whole and advertising market in particular, it is difficult to assess the impact this particular government act has had in the media section.

4.3 IMPACT OF MEDIA OWNERSHIP IN EDITORIAL POLICY AND INDEPENDENCE

While knowing media ownership is important in determining the degree of concentration and pluralism in the media, becoming familiar with the manner it deals with editorial policy is crucial in assessing its impact in media independence. Independence of editorial policy is protected by the broadcasting law, phrased in a very loose manner, with no specific conditions and provisions for this cornerstone of independent media and freedom of expression: “Editorial independence is guaranteed by law. Employment, promotion, and rights and duties of employees of public and commercial radios and televisions are not determined by sex, origin, political views, religion, or membership in trade unions.”⁵⁵ This paragraph attempts to address all the points a law of this kind must comprise in order to be complete, but it fails to address the real problems of identifying and protecting editorial independence, which is, in itself, a delicate concept to grasp and treat.

In 2005 the Albanian Media Institute started a process of revising the existing Code of Ethics, drafted since 1996. Apart from the relative lack of success of the first Code and the need to adjust it to the changes that have taken place in the last decade, there was a third reason for this attempt to effectively self-regulate the media: the amendments aiming to decriminalize defamation and libel are pending in the Parliament and will hopefully pass in the near future. At the mo-

⁵⁴ Mero Baze, “Struggling of ‘media regime’ towards competition” *Tema*, 23.04.2006, p.1.

⁵⁵ Law No.8410, “On Public and Commercial Radio and Television,” 03.05.2007, art.5.

ment there is a final Code of Ethics and a statute of a self-regulation body that can be established. Although in general both journalists and managers and media owners expressed the need to have a self-regulatory mechanism, it remains to be seen whether they will unite in practice in establishing and supporting such a body.

While assessing editorial independence and professionalism in the media we should also bear in mind that quality journalism is difficult to achieve when journalists themselves are very often deprived of their rights. The overwhelming majority of journalists work without contracts, given the weak implementation of Labour Code in the country and the lack of regular supervision of its implementation. In a survey Albanian Media Institute carried out in summer 2007, out of 72 media employees, only nine of them said they had signed a work contract for the current job⁵⁶. While the lack of working contracts is a prevailing problem, other troublesome issues related to it are imposition of sanctions on journalists, working conditions, lack of welfare, job insecurity, etc. For example, according to the same survey, the most widespread sanctions were financial punishment, confirmed to be in use by 57 of the 72 persons surveyed.⁵⁷

A positive step in this regard was the establishment of a trade union of journalists, with the support of IREX in 2005. The union has established branches in the main cities in the country and it has negotiated with the Ministry of Labour, signing a memorandum that would enable the signing of a collective agreement. However, the union and the media community are aware that this process will take some time, due to the aggravated conditions through the years: in 2005, about 95% of journalists in the country worked without contracts and without social security⁵⁸. The existence of other journalism associations has not offered any help in this regard. In fact, these other associations seem to exist only in paper. In the words of one of the chairman of these organizations:

⁵⁶ SEENPM, ed. IJC Moldova, “Labour Relations in the Media in South East Europe,” 2007, publication pending.

⁵⁷ *Ibid.*

⁵⁸ Albanian Center for Media Monitoring, “Labor protection and social security of journalists and media employees, a necessity for a free media,” 2006.

“Even though we have 15 years of free press in Albania, there are only a few cases when colleagues of one media raise their voice or protest about the fate of other colleagues that are unjustly fired, censored, or threatened. Such topics are a topic only in the cafes where journalists gather and are never revealed to the public, leading to a situation where nobody talks of a phenomenon that affects everybody.”⁵⁹

This situation renders journalists highly vulnerable to the desires and whims of their owners. “They are almost helpless when faced with the arbitrary decisions of owners, who can fire their staff without cause.”⁶⁰ In this climate of insecurity, it is difficult to expect anything else from journalists other than obey to the economic and political interests of the owners.

Hence, again, the media owners, their business models, and more importantly, their relations with other actors, become a decisive factor in the scene of the Albanian media and the quality of journalism produced.

⁵⁹ Interview with Armand Shkullaku, “Media, transparency for its own news”, *Shqip*, 10.05.2006, p.12.

⁶⁰ Interview with Aleksander Cipa, chairman of trade union “Union of Albanian Journalists,” July 2007.

5. CONCLUSIONS

In general, mapping the ownership pattern in the Albanian media landscape is not an easy task in view of the weak infrastructure of the data system in this area and the legal pitfalls that can lead to the disguise of ownership. Overall it can be said that the media owners have a business background and have continued to tend to their businesses; moreover, they have expanded it. Although the media landscape is extremely rich in terms of the number of outlets, almost unnaturally so, it is possible to map the main media groups and actors.

However, the real question is not related to ownership as such, but rather to media funding and its transparency. Precisely for this reason, the question how can such an abundance of media outlets function in such a small market still haunts the Albanian media scene. In this sense, the large number of newspapers and television stations in Albania owes its existence mainly to funding by parallel businesses and to the lack of transparency of these funding resources. “From the professional point of view, this parallel funding makes many outlets vulnerable to the pressure or censorship of the businesses that support them, some to a greater extent than others.”⁶¹ This nature of the media landscape certainly bears its print on the information conveyed to the public, where the owners’ interest, rather than public interest define the agenda. “Our media has been alienated and has not served as an honest and independent ‘watchdog’; it has been misused.”⁶² Consequently, transparency about media ownership, activity, and their influence on the public remain key needs for the development of media pluralism and its independence.

⁶¹ IREX, *Media Sustainability Index 2005 – Albania*, p.12.

⁶² Interview with Fatos Lubonja, *Standard*, 27.05.2006, p.35.

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- 4.Law No.9723, "On the National Center of Registration," 03.05.2007.
- 5.Law No.9121, "On Protection of Competition," 28.07.2003.
- 6.Law No.8410, "On Public and Commercial Radio and Television," 28.05.2007.
- 7.NCRT Decision no.10, 15.05.2000, amended by NCRT Decision no.52, 16.07.2001.
- 8.Council of Ministers Decision No.176, "On the Publication of Bulletin of Public Notifications," 29.03.2006.

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