



ORSZÁGOS RÁDIÓ ÉS TELEVÍZIÓ TESTÜLET

National Radio and Television Commission
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Future of Media and Communication regulations in Hungary

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When speaking of international media regulation, I refer to the two European legal instruments the Transfrontier Television Convention and the new Audiovisual Media Services Directive. I have started with the Convention for the simple reason that the draft text of the modified Convention, was adopted on the 12th of June, just a month ago. The new text of the Convention, bearing the name Convention on Transfrontier Audiovisual Media Services was drafted by the Standing Committee of the Council of Europe and much of the credit goes to the Turkish chairperson of the Committee Ms. Nuran Yardimci, whose devoted work contributed a great deal to prepare the new document that is in line with the text of the Audiovisual Media Services Directive. Yet, it is the Directive that has to be transposed mandatorily into the legal systems of the EU Member States. The Directive, which was adopted in December 2007 requires Member States that – within two years – put their national regulation pertaining to media in line with the Directive. As the Directive and the new Convention go hand in hand i.e. their text are in most cases identical, by transposing the Directive, Member States may easily abide by the provisions of the Convention should they transpose the provisions of the Directive. Although the deadline to modify the national regulations will expire by the end of this year, Hungary is yet to adopt a new act to fulfil its obligation and transpose the Directive. The main reason for this is that in Hungary to modify the Media Act a two-third majority of the votes in Parliament is needed. That presupposes a large scale consensus among the political parties in Parliament. Those, who know the present Hungarian political landscape – with deeply divided and mistrustful political sides – it is a rather tall order.

However the government – with an eye on the fast approaching deadline – undertook this arduous task and a drafting group, involving the representatives of the five parties with parliamentary representation prepared the draft text of the new Media Act. The current Media Act, Act I of 1996 on radio and television broadcasting was adopted almost 14 years ago, thus it is long fit for a major overhaul. The current act was created in a totally different era long before the advent of digitalization. Thus, the main expectations that had been posed towards the new Media Act was to create a new act, which is in line with the Directive, fit for the new digital environment with a content based approach, lays down the foundation of modern public service governance and financing, introduces self and co regulation as active forms of supervision, and creates the framework of the effective protection of minors and consumers. The four draft acts fell short of achieving these aims. One reason – I firmly believe – was the fact that the regulatory authority had not been consulted in the process, the lack of professional regulatory expertise is clearly visible in the new texts. The drafts envisage a media environment supervised by politics. A clear indication of this is the idea that only the political parties shall make up the governing bodies of the regulatory authority as well as the public service broadcasters. Strict measures would have been introduced to cut back on editorial freedom such as a search warrant for the regulator to enter the editorial rooms of broadcasters and the chance to mete out severe fines not only on broadcasters but on specific editors as well to deter them from unfounded reporting.

This is quite peculiar given the fact that the Hungarian Constitutional Court gives one of the most liberal interpretations of the freedom of expression when it states that opinion has primacy regardless of its content of value and truth. There is room for all sorts of opinions, be it positive, negative, pleasant or offensive. The only limitations are those coming from outside.

In a common European media space, Hungary should opt for a media regulation that creates a welcoming environment to broadcasters in the regulatory and economic sense. Any attempt to overburden broadcasters with requirements that go far beyond those in neighbouring countries will result in broadcasters resorting to move outside Hungary. It goes without saying that our future regulation should strike a delicate balance between creating a healthy media environment where basic regulatory goals such as the protection of minors, the protection of consumers prevail and endorsing media diversity and easy market entry. However regulation provides only the framework to keep unfettered media activity at bay. Digitalization, the multiplatform (terrestrial, cable, satellite, mobile and IPTV) environment results in a plethora of new content providers the

monitoring of which seems to be an insurmountable task. A possible new solution could be the introduction of co and self regulatory measures to which there are a number of good examples in Europe. This could be augmented by the enhanced cooperation between regulators. In my view EPRA, the European Platform of Regulatory Authority has a very important role in fostering relationship among the regulators in Europe, yet it is the regional cooperation that may provide a good solution to the monitoring of cross-border services. A case in point could be the enhanced cooperation between the Hungarian regulator and our Romanian partner the CNA. In December 2008 the two regulators signed an agreement on enhanced cooperation, which – among other things – authorizes regulators that in case a complaint comes about a broadcaster, which is under the jurisdiction of the other country, the regulator may forward the complaint to the other competent regulator. Such agreement also exists between the Swedish regulator and OFCOM. Yet, we do not want to stop here but we would like to extend the cooperation to other Central-European countries such as Slovakia, the Czech republic and Poland. There is a very urging reason for this: because of the provisions on media ownership in the Hungarian media law, and other broadcasting obligation (e.g. the onerous public service remit to provide 20 minute long news on broadcasters with a national coverage) many broadcasters move abroad (mainly to Romania, Slovakia and the Czech Republic) yet they target mainly Hungarian audience. The complaints do not make a distinction between the broadcasters as regards their places of establishment, they want the regulator to proceed and address their problems. All in all, cooperation among the regulators is just as important as the legal framework that provides for the protection of certain clearly defined values and principles.

And some food for thought:

1. In several countries a rating system for the protection of minors was introduced for television broadcasts. Most of the countries that apply the ratings have taken over the Dutch NICAM system, yet in a modified form so the categories do not correspond. Do you think – and I am addressing my fellow panellists – that a rating system similar to PEGI (Pan European Game Information) the European video game rating system could be established for television?
2. Is it possible to give a satisfactory statutory definition of public service programme?
3. Can internal and external pluralism be defined as a mandatory requirement? (By internal pluralism I mean the political pluralism required from a single broadcaster. By external pluralism I refer to the political pluralism required from the different broadcasters and platforms.)