

Television across Europe:
regulation, policy and independence
Serbia

Table of Contents

1. Executive Summary	1320
2. Context	1323
2.1 Background	1324
2.2 Structure of the television sector	1327
2.3 Market shares of the main players	1331
3. General Broadcasting Regulation and Structures	1335
3.1 Regulatory authorities for the television sector	1335
3.1.1 The Republican Broadcasting Agency (RBA) – main responsibilities	1336
3.1.2 The RBA Council – appointments	1337
3.1.3 The first RBA Council	1340
3.2 Licensing	1343
3.3 Enforcement measures	1346
3.4 Broadcasting independence	1347
4. Regulation and Management of Public Service	
Broadcasting	1350
4.1 The public service broadcasting system	1351
4.2 Services	1354
4.3 Funding	1355
4.4 Governance structure	1357
4.5 Programme framework	1359
4.5.1 Programming	1359
4.5.2 Quotas	1361
4.6 Editorial standards	1362
5. Regulation and Management of Commercial	
Broadcasting	1362
5.1 The commercial broadcasting system	1363
5.2 Services	1366
5.3 Commercial television ownership and cross-ownership	1367

5.4 Funding	1369
5.5 Programme framework	1370
5.5.1 Programmes	1370
5.5.2 Quotas	1371
5.6 Editorial standards	1371
6. European Regulation	1372
7. The Impact of New Technologies and Services	1374
7.1 New media platforms	1374
8. Conclusions	1376
9. Recommendations	1378
9.1 Media policy	1378
9.2 The regulatory bodies (the RBA and the Telecommunications Agency)	1380
9.3 The public service broadcaster (RTS)	1380
9.4 Industrial relations and ethical issues	1380
Annex 1. List of legislation cited in the report	1382
Annex 2. Bibliography	1383

Index of Tables

Table 1.	Technical coverage of the main television channels (spring 2005)	1330
Table 2.	Average daily television audience reach and audience share (population age 4+) – breakdown by type of station (2004)	1330
Table 3.	Average daily television audience share (population age 4+) – breakdown by channel (2005)	1332
Table 4.	Average daily radio audience (population age 4+) – breakdown by station (2004)	1334
Table 5.	Licences required for the different types of broadcasters	1346
Table 6.	RTS expenditure structure (2002)	1356
Table 7.	Programme output of RTS 1 and RTS 2 – breakdown by genre (January-March 2005)	1360
Table 8.	Programme ratings (29 November to 5 December 2004)	1361
Table 9.	Audience shares of the main television channels (2002–2005)	1366

List of Abbreviations

DOS	Democratic Opposition of Serbia, <i>Demokratska Opozicija Srbije</i>
DSS	Democratic Party of Serbia, <i>Demokratska Stranka Srbije</i>
RBA	Broadcasting Agency of the Republic of Serbia, <i>Republička radiodifuzna agencija</i>
RTS	Radio-Television Serbia, <i>Radio-televizija Srbije</i>
SPS	Socialist Party of Serbia, <i>Socijalistička Partija Srbije</i>
SRS	Serbian Radical Party, <i>Srpska Radikalna Stranka</i>

Note on Serbia and Montenegro

The State Union of Serbia and Montenegro, established on 4 February 2003, is at this moment the last country to emerge from the violent dissolution of the former Yugoslavia in the 1990s. Its Constitutional Charter is still not fully implemented, because of differences between the Governments of the union members regarding the future of the State. The present Government of Montenegro has declared its determination to transform the Republic into an independent State, while the Serbian authorities would prefer to preserve the union. The initial arrangement foresees the possibility of a referendum on independence in each of the republics in 2006.

The State is a loose union whose top administrative body, the Council of Ministers, is in charge of only five areas – defence, human and minority rights, foreign policy, internal economic affairs and international economic relations. The federal ministries that were previously concerned with media issues have shrunk into only one office, the Information Directorate, which mostly deals with Government-media relations and has no policy-making capacity.

Since the late 1990s, when the major political rupture occurred between the two republics, their developments have followed separate routes. Media policy is exclusively in the competence of the republics. The media industries in the two republics differ in many respects. Divergent, occasionally even incompatible, conditions, institutions or policy in Serbia and Montenegro have resulted in separated and to a great extent different media systems.

1. EXECUTIVE SUMMARY

The present media landscape in Serbia is shaped by two major factors – a decade of devastation in the 1990s and slow and insufficient reforms after 2000.

The democratic transition in Serbia only started after the presidential elections of September 2000, in which the authoritarian ruler Slobodan Milošević was defeated. Initially, Milošević attempted to avoid accepting electoral defeat, but mass protests in Belgrade on 5 October 2000 brought about a change of power. Since then, media policy in Serbia has oscillated between two myths. The first Government, led by Prime Minister Zoran Đinđić (2001–2003), inspired many people to believe that Serbia would undergo a transition – including the transformation of the media sector – faster than any other country in the region. The second Government, established in early 2004, with Vojislav Koštunica at the helm, behaved as if transition had mostly been completed, often attempting to present the absence of media policy as a “free market approach”. In reality, though, Serbia lives with one of the most unsettled and unregulated media industries in Europe.

Commercial television and radio channels began to emerge in Serbia in the early 1990s, prior to the legalisation of the dual broadcasting system and the establishment of a coherent regulatory framework. Tenders for broadcast licences were called without proper public openings or transparent criteria. Licences were granted as political favours, or broadcasters simply operated with no licence at all. Until recently, even basic data on the media business were difficult to obtain.

It has been estimated that Serbia has, for some years, had up to 1,500 media outlets, of which the majority are broadcast media. In early July 2005, in addition to the State broadcaster, Radio-Television Serbia (RTS), there were 755 radio and television stations in Serbia – 543 radio stations, 73 television stations and 139 stations broadcasting radio and television programmes. However, such a high number reflects a regulatory chaos, rather than a prospering industry. Estimated at approximately €80 million, the advertising market lags far behind other countries in the region in relative terms, and is not strong enough to support such a large number of outlets. Due to legal deficiencies and political instability, foreign capital has not been ventured in significant figures into Serbia’s electronic media industry. Financial sources supporting the present excessive number of media are not transparent.

Television is the most important medium, in terms of both market and audience share. The leading commercial station, TV Pink, and the first channel (out of three) of the State broadcaster, RTS, compete for top audience ratings. Throughout 2005, they attracted similar average audiences – 22.5 per cent and 21.7 per cent, respectively – leaving far behind the two other commercial stations with national coverage, BK Telecom and TV B92. The six national channels have a combined daily audience of 70 per cent and attract most of the advertising income, while the local, regional and foreign channels share the remaining 30 per cent of the audience. The local media are

still mostly owned by the municipalities and other local authorities, but should be privatised by 31 December 2007. With press circulation remaining among the lowest in Europe – estimated at less than 100 copies sold per 1,000 inhabitants – television continues to be the most important medium in terms of social influence.

The Broadcasting Act, adopted in 2002, was the first in a package of media laws adopted since 2000. The act applies to broadcasting in general and, for the first time, regulates both public service and commercial media. Other relevant laws are the Public Information Law (2003), which has general provisions on media freedom and journalistic independence, and the Telecommunications Law (2003), which regulates the technical aspects of broadcasting. Also important is the recently adopted Law on Free Access to Information of Public Importance (2004), which could significantly strengthen the role of media, by helping citizens to exercise their “right to know”.

The Broadcasting Act introduced a new licensing system, defined general programme standards, regulated advertising and sponsorship issues, and introduced anti-concentration instruments. The new regulatory authority, the Broadcasting Agency of the Republic of Serbia (RBA), was entrusted with the majority of the envisioned tasks, and its establishment became a symbol of the transfer of power over broadcasting from political bodies to an independent regulator. It should have become a cornerstone of broadcasting reform in Serbia.

However, the appointment of the members of the RBA Council turned into the biggest media crisis since 2000. Due to Parliament’s violation of the electoral procedures in the case of two members, and the disputed appointment of one more member, two other members resigned immediately after their appointment, in June 2003. The Council was thereby left incomplete and, as Parliament never approved its Statute, it never functioned properly. In turn, this subsequently entirely blocked the implementation of the Broadcasting Act.

After the 2003 general elections, the new authorities amended the Broadcasting Act in 2004, in order to elect a new Council. The election of the new Council was finally completed in May 2005. Immediately upon its appointment, however, the Ministry of Culture and Media initiated further changes to the Broadcasting Act, thereby subjecting it to a second round of amendments even before it had been implemented. In August 2005, more than 20 months after the deadline for the reform of the state broadcaster, RTS, into a public service broadcaster had expired, Parliament passed amendments to the Broadcasting Act which again extended the deadline – until 30 March 2006. The amendments also include permission for RTS to start collecting licence fees – the mandatory licence fees will be paid together with the electricity bill, as of 1 October 2005 – before its transformation into a public service broadcaster. On

31 August 2005, the OSCE Mission to Serbia and Montenegro expressed its regret at Parliament's adoption of these amendments to the Broadcasting Act.¹

The Broadcasting Act foresaw the transformation of RTS into a public service broadcaster by 30 January 2003 at the latest. However, as this proved impossible, RTS has been operating in a legal limbo since February 2003. It cannot be considered a public service institution, but is also no longer a State-owned and controlled broadcaster. It will remain impossible to proceed with the transformation without a fully effective and legally established broadcasting council – that is, the RBA Council – and properly appointed RTS management and governing bodies.

Commercial broadcasting is a recent, but prolific, industry in Serbia. For the past 15 years, new radio and television channels have boomed to the point of congesting the airwaves. This reflects the chaotic policy of the previous decade, when licences were granted arbitrarily and mainly for political purposes. Many media also just took advantage of the regulatory void to start operating without any licence. Beneath this chaotic surface, however, several dominant outlets firmly established themselves as market leaders. Advertising and ownership transparency issues are not fully regulated yet, while the anti-concentration measures recently introduced in media regulation are still not implemented.

In April 2005, Serbia and Montenegro received a positive report on their preparedness to start negotiating a Stabilisation and Association Agreement (SAA) with the European Union (EU). The report indicates that the country should take steps to promote the European audiovisual industry, encourage co-production in the fields of cinema and television, and gradually align its policies and legislation with those of the EU. This particularly applies to matters relating to cross-border broadcasting and the acquisition of intellectual property rights. According to the report, preparation for ratification of the Council of Europe's Convention on Transfrontier Television (ECTT) is already under way. However, the report also states that internal media legislation in Serbia remains problematic.

The outcome of the first wave of regulatory reform is far from satisfactory. The new normative framework is not consistent, the essential legal package has not been completed, there is no proactive media policy, and new institutions are not in place. Political control over broadcasting still exists, although no longer through direct programme interference, but mostly through indirect influences. The Government is reluctant to radically transform the media landscape by enforcing regulation and accountability, while the media empires that emerged during the authoritarian period are now securing their market positions.

¹ OSCE Mission to Serbia and Montenegro, press release of 31 August 2005, available at <http://www.osce.org/item/16128.html> (accessed 31 August 2005).

2. CONTEXT

The television landscape in Serbia has changed beyond all recognition over the past 15 years. However, unlike the situation in the other former socialist countries in Europe, 1989 was not the turning point in the process. The political disintegration of the former Yugoslav federation and the ensuing wars hampered democratic and media changes in Serbia. Democratic transition in Serbia started in autumn 2000, when presidential elections in September, followed by the change of power on 5 October, ended a decade of authoritarian and populist rule by the regime of Slobodan Milošević.

In early 2001, the Democratic Opposition of Serbia (DOS), a heterogeneous coalition of 18 parties, formed a Government promising a rapid transformation of the criminalised State, the ruined economy and devastated society. Besides all of this, Serbia had also suffered severe damage during the NATO bombardment in 1999. The new Government pledged to discontinue the policy of the previous regime. However, overcoming the recent past became as much of a challenge as setting up a new political and social agenda for the future. The arrest of Slobodan Milošević and his transfer to the International Criminal Tribunal in The Hague on 28 June 2001 symbolised this readiness. Yet it also provoked a dreadful reaction on the part of the alliance of criminals, paramilitaries and segments of the security forces against the changes. Their determination to prevent democratisation and to capture the State for their own, criminal, purposes culminated on 12 March 2003 with the assassination of Zoran Đinđić, the first democratically elected Prime Minister. This halted the initial reformist enthusiasm, and caused a major delay in democratic reforms.

The dissolution of the ruling coalition after the murder of the Prime Minister led to early elections in December 2003, followed by complicated coalition negotiations. A new Government, led by Prime Minister Vojislav Koštunica of the Democratic Party of Serbia (DSS), was formed in March 2004 by four parties, whose personnel were once either members of, or close to, the original DOS. It is a minority Government, surviving with the support of Milošević's Socialist Party of Serbia (SPS) and, whenever necessary, also the extreme right-wing Serbian Radical Party (SRS).

The new Government declared constitutional reform to be its major objective, but soon lost its fast pace of transition, consequently slowing down Serbia's reintegration into the international community. This was primarily because of the hesitant cooperation with the Hague Tribunal. Its critics say that, while the Government insists on "legalism", it actually thereby avoids distancing Serbia from its recent nationalistic past. Only in April 2005, after Koštunica's Government sent more than a dozen suspects to the Hague Tribunal, did the EU issue a positive Feasibility Study Report,

opening the way to negotiations on a Stabilisation and Association Agreement that could eventually lead to EU membership.²

2.1 Background

The present media landscape in Serbia is shaped by two major factors – a decade of devastation in the 1990s and slow and insufficient reforms after 2000.

The media constituted one of the pillars of Milošević's regime.³ Although hundreds of new outlets appeared, the domination of State-controlled media in the public sphere was preserved. The majority of the largest, oldest and most prestigious media – led by the publishing house Politika, the State broadcaster, Radio Television Serbia (*Radio-televizija Srbije* – RTS), and the State news agency Tanjug – readily supported the regime, after the authorities crushed the initial resistance by some journalists in these organisations. Among the commercial media first granted broadcast licences were those that were either devoted only to entertainment, such as TV Pink, or were politically supportive of the regime, such as BK Telecom. However, despite many difficulties, new, independent media, devoted to professional and unbiased reporting, were also appearing. Politically supported by the emerging civil society and with some financial aid by Western donors, they slowly changed the media landscape in Serbia. It was only by the end of the decade, in 1998, when war with NATO was looming, that the regime resorted to a new repressive law, the Law on Public Information, to suppress, both politically and economically, alternative media voices.⁴

The legacy of misuse of the media and their devastation is still visible. The market leaders are either State-owned media that have traditionally served the powers that be, or new commercial channels that survived the authoritarian regime due to their lack of criticism. Neither of these outlets ever functioned under regular market conditions, and nor were they ever properly regulated. Therefore, the transformation of both State and commercial channels into broadcasters with public service obligations is a major normative, institutional and professional challenge.

² European Commission, *Serbia and Montenegro Stabilisation and Association Report 2004*, Commission staff working paper, COM(2004) 206 final, Brussels, available at http://europa.eu.int/comm/external_relations/see/sap/rep3/cr_s-m.pdf (accessed 4 August 2005).

³ For a complex analysis of the role of media, along with other important institutions, during the 1990s, see: Nebojša Popov (ed.), *Serbia's Road to War*, CEU Press, Budapest, 1996. For an analysis of the media content of major State and independent media before 1998, see: Snježana Milivojević, and Jovanka Matic, *Ekranizacija izbora, (Televised Elections)*, Vreme knjige, Belgrade, 1993. For a detailed analysis of the role of individual media see, for example: Miodrag Marović, *Politika i Politika, (Politika and Politics)*, Helsinki Committee for Human Rights in Serbia, Belgrade, 2002. For a documented chronology of the misuse of licensing policy, see: Slobodan Djorić, *Bela knjiga o radiodifuziji 1990–2000, (White Book of Broadcasting 1990–2000)*, Spekter, Belgrade, 2002.

⁴ Law on Public Information, *Official Gazette of the Republic of Serbia*, No. 36/98.

The first Government after 5 October 2000 reacted to urgent media problems without developing a coherent media policy. As a sign of goodwill, it immediately abolished the unpopular Ministry of Information and suspended the repressive Law on Public Information 1998. Within months, it announced that the fines that the independent media had paid during several months of the harsh sentencing policy under the Law on Public Information 1998 would be returned to them. Despite this, today many media still complain that they have never been properly compensated for the fines that they had to pay, and that this was only a symbolic gesture on the part of the Government.⁵

The expectations of the public were much higher, however. In the eyes of the public, RTS was perhaps the most visible symbol of the regime's propaganda. Mass protests against the station had taken place on several occasions between 1991 and 2000. Also, NATO warplanes bombarded it in April 1999, killing 16 of its staff. Both the general public and the media community expected a clear break with the past, including some form of justice against those who suppressed the media during those years and also those who commanded pro-regime media during their worst time. Yet the DOS Government avoided responding to this difficult task. Instead, its major media-related achievement during its three years in office was the adoption of three relevant laws: the Broadcasting Act (2002),⁶ the Telecommunications Law (2003),⁷ and the Public Information Law (2003).⁸ However, as yet, none of these laws has been fully implemented.

The Broadcasting Act was adopted by the Serbian Parliament in July 2002.⁹ It was amended two years later, in August 2004, and again in August 2005. From its initial stages, the draft was prepared by a working group of media, legal and NGO experts, with international expert assistance, and it was based on Council of Europe standards. The working group was formed on the initiative of media and NGO activists, who had been demanding regulatory changes long before 5 October 2000. Independent organisations and experts had on several previous occasions drafted various proposals, but the Government and Parliament had never adopted them.¹⁰ This time, however,

⁵ Comment from the OSI roundtable meeting, Belgrade, 9 May 2005 (hereafter, OSI roundtable comment). *Explanatory note: OSI held roundtable meetings in each country monitored to invite critique of its country reports in draft form. Experts present generally included representatives of the Government and of broadcasters, media practitioners, academics and NGOs. This final report takes into consideration their written and oral comments.*

⁶ Broadcasting Act, *Official Gazette of the Republic of Serbia*, No. 42 /18 July 2002.

⁷ Telecommunications Law, *Official Gazette of the Republic of Serbia*, No. 44/03, 24 April 2003.

⁸ Public Information Law, *Official Gazette of the Republic of Serbia*, No. 43/03, 23 April 2003 (hereafter, Public Information Law 2003).

⁹ Broadcasting Act, amendment of 24 August 2004, *Official Gazette of the Republic of Serbia*, No. 97/04, (hereafter, Broadcasting Act). Available in Serbian at http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=163&t=Z (accessed 4 August 2005).

¹⁰ These initiatives from civil society date back to the early 1990s. See: Prvoslav Plavšić, Mirosljub Radojković, Rade Veljanovski, *Toward Democratic Broadcasting*, Soros Yugoslavia Foundation, Belgrade, 1993.

they welcomed the introduction of the working group, although it mostly worked without the participation of State institutions. A long debate preceded the acceptance of the draft law, with its tenth version finally submitted to Parliament.¹¹ The final text is, in many respects, a compromise, reflecting the various influences along the way and neglecting some of the initial demands of civil society.

The Broadcasting Act established a new regulatory authority – the Broadcasting Agency of the Republic of Serbia (RBA). It introduced a new licensing system and defined general programme standards, including public service obligations. The act also prescribed basic anti-concentration instruments, and regulated advertising and sponsorship. Additionally, it foresaw the transformation of the State broadcaster, RTS, into two separate public service institutions (see section 4.1) and the privatisation of other State-owned outlets.

The new regulatory authority, the RBA, was entrusted with carrying out the majority of the envisioned tasks. Its establishment became a symbol of the transfer of power over broadcasting from political bodies to an independent regulator. The RBA should have become a cornerstone of the broadcasting reform in Serbia. In particular, it was expected to bring order to the illegal operation of hundreds of broadcasters who were jamming the airwaves. However, the attempt to establish an independent broadcasting regulator failed, due to Parliament's violation of the appointment procedures for the RBA Council. As a result, two out of the nine members resigned, and the RBA Council could never function properly (see section 3.1.2).

The incomplete RBA Council blocked implementation of the law, the transformation of the State broadcaster into a public service, the privatisation of local media and initiation of the new licensing procedures. Although the unresolved status of the broadcasting regulator immediately became a political problem, any attempt to find a solution was postponed until after the early elections, in December 2003. Yet, less than two weeks after taking up office in March 2004, the subsequent Government appointed a new Director General of State television, using its prerogatives under the Law on Public Enterprises.¹² The Government said that the intervention was justified because of popular dissatisfaction with RTS's coverage of the outbreak of ethnic violence against Serbs in Kosovo on 17 March 2004. The Government opted for personal, rather than structural, changes within State television, confirming right away its primary interest in programme content, rather than institutional transformation. In order to solve the crisis over the RBA Council, the Government proposed insignificant amendments to the Broadcasting Act, using these changes as a justification for appointing a new Council before the termination of the mandate of the inactive one. Although the Government argued that this procedure offered the only possible

¹¹ More details on the working group activity and the media transition process so far are available in Serbian at <http://www.mediacenter.org.yu/code/navigate.asp> (accessed 4 August 2005).

¹² Law on Public Enterprises and Related Areas of Public Interest, *Official Gazette of the Republic of Serbia*, No. 25/2000.

solution, critical observers believe that, through such manoeuvres, the Government again subordinated the Council to political interests.

The Public Information Law and the Telecommunications Law also took a long time to prepare. Both were adopted a year later than the Broadcasting Act, in April 2003 – during the state of emergency following the assassination of Prime Minister Đinđić.¹³ During the parliamentary debate, the Law on Public information was modified by the insertion of nine new articles, which, among other things, permitted courts to ban the dissemination of information, if such information would result in “a serious, irremediable consequence that could not be prevented in another manner”.¹⁴ As these were last-minute amendments, they were never publicly debated, and still draw much criticism from the media. Professional associations and human rights organisations have repeatedly asked for the revocation of these provisions, which reflected the restrictive climate of the moment. After several postponements – and on persistent pressure from the media, NGOs and international organisations – the Law on Free Access to Information of Public Importance was finally adopted in November 2004.

The introduction of European standards, through new media regulation, has a twofold meaning for Serbia. First, in constructing a normative framework for a transitional society. Second, in providing a new context for a country isolated from the international community for years, during the UN-led embargo of the 1990s (because of Belgrade’s role in the war in Bosnia and Hercegovina). However, the country had already enjoyed massive international assistance in the media domain even before Serbia and Montenegro became a member of the Council of Europe in April 2003. Since the early 1990s, international and western donors have supported independent outlets and strengthened media pluralism. After 2000, external support was extended to include assistance with the transformation of State television into a public service broadcaster, as well as expertise for revising normative and institutional structures. Prior to the country’s membership of the Council of Europe, its progress in the media domain had been regularly monitored.¹⁵ However, after an initial few months of enthusiasm, its progress has usually been evaluated as slow and insufficient. In Serbia, the delay of media policy reforms appears to be a permanent condition rather than a temporary aberration.

2.2 Structure of the television sector

Broadcasting in Serbia was introduced in 1929, when Radio Beograd was established. This is also the date of foundation of the present public enterprise, Radio-Television Serbia (*Radio-televizija Srbije* – RTS). Regular television broadcasts went on air in

¹³ The state of emergency introduced after the assassination of Prime Minister Zoran Đinđić lasted from 12 March to 22 April 2003.

¹⁴ Public Information Law 2003, art. 17.

¹⁵ See, for example, the following Council of Europe reports: SG-Inf(2004)14, SG-Inf(2003)28, SG-Inf(2003)38, SG-Inf(2004)8, available at <http://www.coe.int/sg> (accessed 4 August 2005).

1958, with the second television channel launched in 1972 and the third in 1989. Until the 1990s, Radio-Television Belgrade (*Radio-televizija Beograd* – RTB), renamed Radio Television Serbia (RTS) in 1992, was a State monopoly. It was a large State-owned company, financed by licence fees. It comprised three units, with RTV Novi Sad (in the autonomous province of Vojvodina) and RTV Priština (in the autonomous province of Kosovo-Metohija) as regional centres, in addition to the Belgrade headquarters. State television always maintained strong coverage of news and current affairs, but also had a high-quality production of drama, documentary, children’s and educational programmes.

Competition in the media industry was introduced as a result of a combination of arbitrary political decisions and some chaotic developments. Commercial stations began to emerge prior to the legalisation of the dual broadcasting system and before any coherent regulatory framework was in place. Several tenders for broadcast licences were called without proper public openings or transparent criteria for obtaining licences. Due to changes of remit between federal and republican ministries throughout the 1990s, some of the licences were issued on a temporary basis. However, there were also arbitrary decisions by the State broadcaster, RTS, to sign a series of business agreements with new commercial broadcasters that in fact permitted the use of RTS frequencies and transmitters. Two new major television stations, both friendly to the Milošević regime – TV Pink and BK Telecom – used this privilege to enlarge their service area after they started operating in 1994.

During the following years, hundreds of stations emerged, either with various temporary licences or without any licence at all. Immediately after Milošević’s regime was ousted in 2000, the Federal Ministry of Telecommunications called for a moratorium on granting new broadcasting permits. The moratorium was a temporary decision, intended to prevent new stations appearing and to halt any further deterioration in the utilisation of the airwaves, but did not have its intended effect. According to data released by the Broadcasting Agency in July 2005, 172 radio stations, 10 television stations and 39 radio and television stations started broadcasting *after* the suspension of the issue of new broadcast licences in July 2002.¹⁶

Due to the political heritage of the 1990s, the media in Serbia are often regarded as a source of political influence rather than an industry, and this is reflected in their high position on the political agenda. The commercial aspects of media operations are widely understood to be a private matter for their owners, rather than a public issue requiring adequate transparency. For many years, the total number of media outlets was unknown, with official statistics inaccurate and hopelessly belated. Only recently, the RBA disclosed that, besides RTS, there are 755 broadcasters in Serbia – 543 radio stations, 73 television

¹⁶ “U Srbiji ima 755 emitera”, (“There are 755 broadcasters in Serbia”), in *Politika* (daily), Belgrade, 2 July 2005, p. A9, (hereafter, *Politika*, 755 broadcasters).

stations and 139 stations broadcasting both radio and television programmes.¹⁷ At least 300 local media are still in various forms of State or municipal ownership.

Due to the arbitrariness of the licensing regime and the frequent changes of institutional remits, with many temporary arrangements, all electronic media operate without proper licences. There is no control of the technical aspects of their work, and the financial sources sustaining this medley are not publicly known. Because of legal deficiencies and the permanent political instability, foreign capital has not been attracted to the broadcasting sector.

Television is the most widespread medium, with 81.7 per cent of households owning a television set and 98 per cent of the population above the age of four watching television. The average viewing time is 3.5 hours per day. Radio is second in importance, with 87 per cent of the population regularly listening, primarily to music programmes (69 per cent). Press circulation is low – around 30 per cent of the population do not read daily newspapers at all, or read them only several times a month, an additional 40 per cent read newspapers from once to a few times per week, and fewer than 30 per cent read dailies.¹⁸ The number of Internet users is growing fast. Since it was introduced in 1996, it has increased by an average rate of 15 per cent annually.¹⁹ It reached approximately 840,000 users in 2004. Yet, at 11 per cent of the population, Internet usage is still quite low in comparison with other European countries.²⁰ Reliable cable and satellite data are not available, and there is no regulation for these two media platforms.

At present, six channels have national coverage – three RTS channels and three commercial stations (see Table 1).

¹⁷ *Politika*, 755 broadcasters.

¹⁸ Strategic Marketing and Media Research Institute, *What Does Serbia Read?*, survey on the print media market, November-December 2003, presentation obtainable through IREX.

¹⁹ International Financial Corporation, *Investing in the Internet Sector and Development of IT Technologies in Serbia*, Public Report, Belgrade 2003, p. 23.

²⁰ CEPIT, *E-volucija*, No 8, 2005, available (in Serbian) at <http://www.bos.org.yu/cepit> (accessed 4 August 2005).

Table 1. Technical coverage of the main television channels (spring 2005)

Channel	TV households receiving the channel (per cent)
RTS 1	98.3
RTS 2	97.7
3K (RTS 3)	94.8
TV Pink	91.8
BK Telecom	88.6
TV B92	88.6

Source: AGB Nielsen Media Research²¹

The combined audience share of the national channels averaged 75 per cent during 2004. Local, regional and foreign media are watched by around one quarter of the audiences (see Table 3).

Table 2. Average daily television audience reach and audience share (population age 4+) – breakdown by type of station (2004)

Type of television station	Daily audience reach (per cent)	Daily audience share (per cent)
National	77.0	75.2
Local	43.8	10.2
Regional	32.0	6.8
Foreign	22.3	7.8
Total	–	100

Source: AGB Nielsen Media Research²²

Many local media are still connected to municipalities or local authorities, as they were either founded by them or are funded by them, pending the forthcoming privatisation.²³ The Broadcasting Act set out a four-year period for the privatisation to be accomplished, with a deadline of summer 2006. However, the process is already

²¹ AGB Nielsen Media Research, overview of the Serbian television scene January-July 2005, available in Serbian at <http://www.agbnielsen.co.yu/srpski/vesti/index.shtml#37> (accessed 4 August 2005), (hereafter, AGB Nielsen Media Research, *Overview: January-July 2005*).

²² AGB Nielsen Media Research, *Overview: January-July 2005*.

²³ For more on the local media, see: Snjezana Milivojević, and Srećko Mihajlović, *Local Media and Local Community Development*, Belgrade, Friedrich Ebert Stf., 2004; also: IREX, “Media Privatization in Serbia”, roundtable debate, Belgrade, 2004; “Privatization of the Media in minority languages”, transcript, roundtable debate organised by IREX and the Novi Sad School of Journalism, in Novi Sad, 2 June 2004.

behind schedule new amendments to the Broadcasting Act, passed by Parliament in August 2005, extend the deadline for privatisation of local electronic media until 31 December 2007.²⁴ The privatisation of State-owned or publicly funded print media was given an even shorter deadline, to April 2005, according to the Public Information Law.²⁵ However, by the time that the Government had proposed its extension to summer 2006 and Parliament had voted on it, the deadline had already expired.²⁶ The local media have been repeatedly exposed to the influence of the local authorities and continue to operate under extreme uncertainty, a situation that has only been exacerbated by the postponement of the legal deadline for their privatisation.

2.3 Market shares of the main players

The excessive number of media outlets in Serbia reflects a regulatory chaos rather than a prospering media market. At approximately €80 million per year, total advertising expenditure is smaller than that in other countries of the region, in relative terms. It is far from enough to support this number of electronic outlets. Advertising spending has increased by €15 million annually since 2002. Advertising is still not properly regulated, and the deficient taxation system does not provide for adequate insight into the money flow.²⁷

Of the total annual advertising expenditure, 65 per cent goes to the television sector, 4 per cent to radio and 19 per cent to the print media. A major portion of the total revenue, around 40 per cent, goes to TV Pink.²⁸ All three channels of the State television broadcaster, RTS, together take half of this amount. Two other national commercial channels, BK Telecom (12-15 per cent) and TV B92 (6-7 per cent),

²⁴ Proposed changes to the Broadcasting Act, available in Serbian at [http://www.mediacenter.org.yu/media on media.htm](http://www.mediacenter.org.yu/media%20on%20media.htm) (accessed 4 August 2005).

²⁵ Law on Public Information 2003, art. 101.

²⁶ Public Information Law, amendment of 15 July 2005, *Official Gazette of the Republic of Serbia*, No. 61/05. Available in Serbian at http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=236&t=Z (accessed 4 August 2005).

²⁷ Therefore, all estimations are based on monitoring advertising expenditures as part of advertisers' market research and are indirectly calculated by the price list of the media concerned. This has been regularly monitored only since 2001. For further information, compare the yearly overviews of the media scene in Serbia of AGB Nielsen Media Research available in Serbian at <http://www.agbnielsen.co.yu/srpski/vesti/index.shtml#37> (accessed 4 August 2005).

²⁸ According to its own calculation, TV Pink has exceeded this figure and attracts 45 per cent of total television advertising expenditure in the country. Pink International, *Company Information for the Year 2003*, (Company promotion publication in English), p. 9.

together take a similar share, while the rest remains for several hundred other television broadcasters.²⁹

TV Pink and the first channel of the State broadcaster, RTS 1, had similar average audience shares throughout 2005, at 22.5 and 21.7 per cent, respectively (see Table 3). They were well ahead of the other two commercial channels with national coverage, BK Telecom and TV B92. All three channels of the State broadcaster, combined, averaged 31.8 per cent of the audience share, making RTS the network with the greatest audience.

**Table 3. Average daily television audience share (population age 4+)
– breakdown by channel (2005)**

Channel	Audience share (per cent)
TV Pink	22.5
RTS 1	21.7
BK Telecom	11.4
TV B92	6.9
RTS 2	6.3
3K (RTS 3)	3.8
Other	27.4
Total	100

Source: AGB Nielsen Media Research³⁰

From a population of close to 7.5 million in Serbia, about 5 million form the usual daily television audience.³¹ For the majority of the population, television is also the major source of information. The evening RTS 1 news bulletin, *Dnevnik 2*, still attracts the largest audience and is the only daily news programme watched by more than 1 million viewers. For example, the *Dnevnik 2* broadcast was the seventh-rated

²⁹ AGB Nielsen Media Research, *Media scene in Serbia 2004*, presentation at the Media fair in Novi Sad, 3 March 2005, available in Serbian at <http://www.agbnielsen.co.yu/srpski/vesti/index.shtml#37> (accessed 4 August 2005), (hereafter, AGB Nielsen Media Research, *Media scene in Serbia 2004*).

³⁰ AGB Nielsen Media Research, *Overview: January-July 2005*.

³¹ According to the 2002 census, the population of Serbia is 7,498,001, or 92.3 per cent of the population of the State Union of Serbia and Montenegro. These figures do not include Kosovo. More population data is available (in English) on the Serbian Government website at <http://www.srbija.sr.gov.yu> (accessed 4 August 2005).

programme in 2004, with 1,691,861 viewers, or 48.3 per cent of the total audience watching television that evening.³²

The major portion of the television audience is divided between the State broadcaster and the largest commercial station, TV Pink. RTS is obviously competing for audiences, and is becoming more focused on its entertainment programmes, introducing more soap operas, reality and game shows. This competition is serving to blur the editorial differences between public and commercial channels. TV Pink – known since its establishment in 1994 for its light entertainment profile – has continued almost unchanged in terms of programme content, and the station even strengthened its position after 2000. The other commercial channel, BK Telecom, preserves a variety of programming, but is increasingly serving the political agenda of its owner, Bogoljub Karić (see section 3.4). TV B92 is still trying to introduce public service standards in commercial television – a project disliked both by RTS, uncomfortable with serious journalism competition from the commercial sector, and by commercial channels, unhappy to see goals other than profit maximisation in non-publicly funded media.

Radio audiences show different preferences. Liberalised much earlier than television, and with innovative programming coming from the tradition of city-based Studio B and the youth station B92, radio has built up strong audiences for alternative programmes, unlike the much more controlled television broadcasters. For the independent radio stations that started operating in the 1990s, their continued high ratings form one of the biggest accomplishments of media freedom struggles before 2000.

The celebrated radio station Radio B92 initiated ANEM, a network of independent electronic media in 1993, as an alternative to the dominance of RTS at the time. The association grew much stronger after the local elections in 1996, when many local governments were formed by the previously opposition parties. Municipal stations in these towns mostly joined ANEM, trying to increase their programme quality and especially news production. The exchange of high-quality radio programmes throughout the country was particularly important during the times when central authorities strictly controlled most local outlets. It was also a means by which B92 programmes could be rebroadcast, on the occasions when the station was forced to shut down its offices during the time of authoritarian rule. At present, the network comprises 16 television stations and 28 radio stations, and has over 70 affiliates. ANEM continues to exist as a programme-oriented business association, but still actively promotes issues related to media independence.³³

³² AGB Nielsen Media Research, *Media scene in Serbia 2004*.

³³ More information is available on the ANEM website at <http://www.anem.org.yu/eng/clanice/index.html> (accessed 4 August 2005).

**Table 4. Average daily radio audience (population age 4+)
– breakdown by station (2004)**

Radio station	Audience share (per cent)
ANEM	8.6
Radio Beograd	6.1
Radio B92	4.0
Radio S	4.0
Radio Pink	2.3
Radio JAT	2.2
Beograd 202	1.9
Other (mostly local and regional stations)	70.9

Source: AGB Nielsen Media Research³⁴

Press circulation is among the lowest in Europe, and total sales do not exceed 700,000 copies per day.³⁵ Even with the rapidly growing circulation of tabloids in Serbia over the recent years, this still leaves Serbia with fewer than 100 copies per 1,000 inhabitants. Exact data on circulation or any other aspects of the publishing industry is not available, as most companies regard such information as confidential. The press market is diversified and has a long tradition of specialisation in both content and variety. The oldest publishing house, Politika, alone has 30 different media outlets. Despite low circulation figures, there are 12 daily newspapers of different format and editorial orientation at present. Since 2000, this has been a particularly lively, but unstable, market. Of the several new papers that have emerged, some have a fast-growing readership, while some have already disappeared. All of the newly established dailies in the past five years have been tabloids. In spite of differences, they are all recognisable by openly advocating conservative, nationalist and populist attitudes. This significantly influences the overall media quality, as broadsheets and serious television channels feel under pressure to also adjust to tabloid standards. It also decisively shapes the public debate, by introducing tabloid issues and style into political life.³⁶

³⁴ AGB Nielsen Media Research/ SMMRI, *Radio Audience Research in Serbia*, May 2004, presented at the Media Centar, Belgrade, 7 July 2004, obtainable through IREX.

³⁵ In the absence of official data, this calculation is based on information from the media themselves. It also roughly coincides with rating measurement data. See, for example: Strategic Marketing and Media Research Institute, *What Does Serbia Read?*, survey on the print media market, November-December 2003, presentation obtainable through IREX.

³⁶ On different aspects of the phenomenon see, for example: Snježna Milivojević, *Tabloidization of the Daily Press in Serbia*, 2004, research report obtainable from IREX, and Helsinki Committee for Human Rights in Serbia, *Mediji kao deo anti-evropskog fronta: Štampa, nepromenjena matrica, (Media as part of the anti-European front: The press, unchanged pattern)*, Belgrade, 2005, available at <http://www.helsinki.org.yu> (accessed 4 August 2005).

3. GENERAL BROADCASTING REGULATION AND STRUCTURES

The Broadcasting Act was adopted in July 2002, replacing the outdated Law on Radio and Television that had been in force since 1991. The act applies to broadcasting in general and established an independent regulatory authority, the Republican Broadcasting Agency (RBA), as a regulator with wide competencies covering several areas. The Broadcasting Council was elected one year after the law was adopted. However, because it was not constituted in accordance with the law, it was never able to exercise its responsibilities. Disputes over the Council blocked the implementation of the entire Broadcasting Act. A new Council was appointed in May 2005, following amendments to the Broadcasting Act in 2004, which terminated the mandate of the inoperative Council.

Due to frequent changes in the licensing policy and its arbitrary application, together with the overall disordered development of the broadcasting sector, all broadcasters are currently operating without licences. Broadcast licences and content requirements must be defined by the Broadcasting Council, which is still inoperative, while the allocation of frequencies should be enforced by the Telecommunications Agency, which was only established in May 2005, after a two-year delay.

The Ministry of Media and Culture is in charge of general media issues, whereas the technical aspects of broadcasting and telecommunications are within the remit of the newly established Ministry of Capital Investment (2003).

The Telecommunications Law regulates the technical aspects of broadcasting, including the allocation of frequencies. The law should be enforced by the Telecommunications Agency, which was established in May 2005.

3.1 Regulatory authorities for the television sector

The Broadcasting Act established the Republican Broadcasting Agency (RBA) as the broadcasting regulator. The act applies to broadcasting in general and, for the first time, regulates both public service broadcasting and commercial media, replacing the outdated Law on Radio and Television, in force since 1991.³⁷ The Broadcasting Act defines the following principles as the basis for regulating the broadcasting sector:³⁸

- affirmation of civil rights and freedoms, especially freedom of expression and diversity of opinion;
- prohibition of censorship or interference in the work of the broadcasters;

³⁷ The Law on Radio and Television, *Official Gazette of the Republic of Serbia*, No. 48/91, 49/91, 53/93, 55/93, 67/93, 48/94 and 11/2001.

³⁸ Broadcasting Act, art. 3.

- freedom, professionalism and independence in public service broadcasting;
- rational use of the radio frequency spectrum;
- impartiality and transparency of licensing;
- encouragement of the development of broadcasting;
- creativity and application of internationally recognised norms in the sector.

3.1.1 The Republican Broadcasting Agency (RBA) – main responsibilities

The Broadcasting Act established the Republican Broadcasting Agency (RBA) as an organisation independent of any State body, other organisation or individuals involved in broadcasting and related activities. It is a regulator with wide competencies covering several areas.³⁹

The first concerns its policy capacity, such as defining broadcasting strategy and creating a development policy, which has traditionally been the responsibility of the Government and Parliament. The RBA must be consulted in any matter of media regulation or policy undertaken by Parliament, and should cooperate closely with State institutions in media-related issues.

The second area includes the tendering and issuing of broadcast licences (see section 3.2). The process is to be carried out in cooperation with the Telecommunications Agency and according to the Frequency Allocation Plan prepared by the Ministry of Telecommunications.

The third area includes the supervision of the work of broadcasters in Serbia and the consistent application of the Broadcasting Act, including compliance with programme standards and sanctioning inadequate media performance. In this respect, special attention is given to the Agency's obligations in protecting minors, monitoring hate speech and ensuring the provision of programmes for minorities.⁴⁰ The Agency has the mandate to oversee broadcasters' performance and their compliance with general programme standards and special requirements set in their broadcast licence contract. It can issue warnings and temporarily or permanently revoke a broadcaster's licence. It also regulates the programme content of the public service broadcaster and appoints its managing board, and has to approve the statutes of civil society media (i.e. not-for-profit radio stations). All Agency decisions are subject to administrative lawsuits.

However, due to the long and tortuous history of RBA Council's appointment, the Agency has not yet assumed all its responsibilities (see section 3.1.2).

³⁹ Broadcasting Act, art. 8.

⁴⁰ Broadcasting Act, art. 19, 21.

The Agency is funded from broadcast licence fees (see section 3.2). In case it falls short of its planned income, the missing funds are to be provided from the State budget. However, the Broadcasting Act clearly states that this shall in no way influence the independence and autonomy of the Agency.⁴¹ Spending must adhere to a financial plan, which the RBA Council adopts on an annual basis, and before the end of the current year for the following one. The financial plan has to be published, and all revenue and expenditures are to be reviewed annually by an independent authorised auditor. Annual financial reports must also be published within three months of the end of the fiscal year.⁴²

3.1.2 The RBA Council – appointments

The RBA Council is the principal decision-making body of the Broadcasting Agency. It is a small, expert-type body, consisting of nine members and composed according to a socially representative model, as a variety of institutions are entitled to nominate members. The emphasis on selecting experts as members of the Council brings it close to being a body consisting of professionals. Nevertheless, the diversity of nominators should provide it with a representative quality.

The Council members must be distinguished experts in the relevant fields – for example, media experts, advertising experts, lawyers, economists and telecommunications engineers. Political interference is made additionally difficult by excluding from membership politicians (members of parliaments and political parties, and State officials), and any individuals involved in broadcasting or related activities, including their spouses, parents, children or other relatives to the second degree of kinship.⁴³

The Council is appointed by Parliament. Parliament can only select one out of two candidates submitted by each nominator. A candidate is selected if the majority in Parliament votes for her or him. However, once appointed, members are not representatives of the institutions that nominated them, and have to fulfil their duties independently, to the best of their knowledge and conscience, only in keeping with the law.

Authorised nominators of the candidates for membership of the Broadcasting Council are spread across various groups, but civil society representatives have objected that, in their opinion, State institutions are over-represented. This was not the case in earlier drafts of the Broadcasting Act, which foresaw a Council with 15 members. However, when the number of members was slashed to nine in the final version of the act as

⁴¹ Broadcasting Act, art. 35.

⁴² Broadcasting Act, art. 36.

⁴³ Broadcasting Act, art. 25.

adopted in 2002, while the number of State institutions that could nominate candidates for the Council stayed unchanged, a clear disparity emerged.⁴⁴

When the Broadcasting Act was amended in August 2004, the composition of the Council was slightly modified, without changing the total number of members.⁴⁵ The right to nominate was given to the following:⁴⁶

- the Parliamentary Committee on Culture and Information: six nominees – for three members;
- the rectors of the country's universities (through mutual agreement): two nominees – for one member;
- media and professional associations: two nominees – for one member;
- domestic NGOs focusing on the protection of the freedom of expression and/or the protection of the rights of national and ethnic minorities, and the protection of children's rights (through mutual agreement): two nominees – for one member;
- churches and religious communities: two nominees – for one member;
- the Parliament of the Autonomous Province of Vojvodina: two nominees – for one member.

The Council members propose the ninth member themselves. Apart from the criteria prescribed for other members, he or she must live and work in the territory of Kosovo (Serbia's southern province, under UN administration since 1999). The law does not require two nominees, but in this case only specifies that the candidate must obtain the votes of at least five Council members.⁴⁷

The State is favoured over media or civil society institutions not only by the number of nominations, but also by its possible influence upon selecting members proposed by the churches and the ninth member, from Kosovo. As there is no rotation proposed for various religious communities, it is foreseeable that the representatives of the Serbian Orthodox Church, with much closer relations to the State than have the Catholic,

⁴⁴ This was one of the changes to the Broadcasting Act that the Government introduced at the last minute, modifying the original composition of the Council, and transforming the character of the regulator, without adjusting other aspects of the nomination procedure. More details and comments of international experts comments are available at http://www.coe.int/t/e/human_rights/media/3_Assistance_Programmes (accessed 4 August 2005).

⁴⁵ Broadcasting Act, amendment of 24 August 2004, *Official Gazette of the Republic of Serbia*, No. 97/04, (hereafter, Broadcasting Act), available in Serbian at http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=163&t=Z (accessed 4 August 2005).

⁴⁶ Broadcasting Act, art. 23, 24.

⁴⁷ Broadcasting Act, art. 23.

Muslim or any other religious communities, would always be given an advantage. In the case of the member from Kosovo, political interference is even more possible, as the State has more resources to preserve its contacts with interested parties in Kosovo at present, and through its financial support could influence selection of a nominee even further.

Amendments to the Broadcasting Act, passed by Parliament in August 2005, introduced terms ranging from four to six years for Council members, depending on the body proposing them. Those members of the Council elected upon the proposal of the Parliamentary Committee for Culture and Information will serve a six-year term; those proposed by the Parliament of the autonomous province of Vojvodina,⁴⁸ the universities and the religious communities will serve a five-year term; while those proposed by NGOs and professional associations will serve a four-year term. The Independent Union of Journalists and some other organisations criticised this amendment as offering an unjustified privilege to the political parties in Parliament, and thus increasing their leverage on the Council. Previously, the length of each member's term was awarded by drawing lots (the terms were of different length to ensure that elections to the Council would in future be staggered). The Government argued that the nominees of the Parliamentary Committee for Culture and Information contribute more to the "public interest" than those of other authorised nominators. However, as the Committee's nominees are agreed on in advance between the political parties, and if they can serve for several consecutive terms, this amendment means that Parliament (and in effect, the political parties) can preserve a permanent influence on the composition of the regulatory authority.

Along with its representative composition, the Council's independence should be further protected by a transparent and demanding appointment procedure and, even more, by the restricted dismissal criteria for members. Their appointment may end only in the case of the following:⁴⁹

- serious illness (causing them to be incapacitated to perform duties for a period exceeding six months);
- giving false personal data during the nomination, or violation of the conflict of interest clauses, even if occurring during the term in office;
- not fulfilling duties for at least three consecutive months, or a period of 12 months during which duties are not fulfilled for at least six months.

A dismissal has to be thoroughly argued, and requires a majority in Parliament.

⁴⁸ At the same time, the right of veto for the representative from Vojvodina on decisions pertaining to this province was abolished.

⁴⁹ Broadcasting Act, art. 28.

3.1.3 The first RBA Council

The first appointments to the Council were delayed for eight months, after which the process was unexpectedly rushed through, pending the country's admission to the Council of Europe in April 2003. Throughout all the elapsed time, Parliament and the Government had their publicly declared candidates, but different people were nominated at the session of the Parliamentary Committee on Culture and Information and subsequently appointed. This was a procedural violation, as the Broadcasting Act requires that candidates be presented to the public at the latest 30 days ahead of the vote in Parliament. This disregard of the law soon turned into a substantial problem, provoking serious public criticism of those two appointments and the resignation of the Council member who was nominated by professional associations immediately after her appointment, in June 2003.⁵⁰

During its constitutive session in June 2003, the Council proposed for its ninth member a person whose personal biographical data was disputed, as he was not working and living in Kosovo as the law requires. Although this is one of the conditions for possible dismissal, the Council did not find it proper to even discuss the allegations. Therefore, another Council member, nominated by NGOs, also resigned. In turn, the incomplete Council selected the two disputed members as its Chair and Vice-Chair. Professional organisations and the general public saw this as a form of support for the disputed members and of further disrespect for the law. Because of the long-lasting political confrontations over procedural and personal issues, the Council's record of limited independence was irreparably damaged.⁵¹

Finally, the dispute provoked a reaction from those international organisations that had been supportive throughout the preparation of the Broadcasting Act. The European Agency for Reconstruction suspended its €300,000 aid allocated for the work of the Council in the first year. When, under public pressure, Parliament finally responded to the problem in August 2003, it confirmed its original vote on the members of the RBA Council, maintaining that the 30-day requirement was pointless after so much time had elapsed. The incomplete Council never recovered from this initial loss of credibility, although it continued to exist. It did not issue any legal documents, and nor could it have done so, as Parliament never approved the Council's statute.

The flawed appointment of the RBA Council members escalated into the most serious media crisis after 2000, which blocked the implementation of the Broadcasting Act and indefinitely postponed the much-expected first, and fair, licensing procedure. As the RBA Council is responsible for appointing the RTS Governing Board (see section 4.4), RTS was left without its governing bodies and so could not even start its transformation into a public service broadcaster. Private broadcasters continued to be

⁵⁰ The member who resigned is the reporter for this report.

⁵¹ Extensive information about the dispute is available at <http://www.b92.net/specijal/rds/> (4 August 2005).

unmonitored, as there were no licensing requirements to which they could be held responsible, and the Council enjoyed no credibility to set requirements. Finally, the flawed appointment process discredited the new regulator, which otherwise could have settled the various lingering media conflicts that still burden Serbian society.

After the 2003 parliamentary elections, the new Government declared that finding a solution for the status of the RBA Council was one of its priorities. In August 2004, Parliament slightly amended the Broadcasting Act, by modifying the list of authorised nominators. This was used as a justification to elect a new Council. The major modification was made with respect to the three members nominated by the State – the right to nominate these members was centralised in the hands of the Parliamentary Committee on Culture and Information. As Parliament votes in accordance with the strength of the parties represented in it, this modification in fact restored the dominant political influence of political parties on the composition of the Council. The list of Parliament’s nominees clearly stated which party supported the respective nominations, and indicated that the parties had reached mutual agreement prior to presenting the list.

Parliament and the Government thereby avoided admitting responsibility for the violation of the law committed during the flawed nomination of the first Council after the adoption of the Broadcasting Act in 2002. Instead, they proposed amendments that reinstated the influence of political parties on the Council. It therefore became evident that the two-year regulatory vacuum was a consequence of the reluctance of the ruling political parties to accept an autonomous regulator.

Media and professional organisations active in media policy have proposed more ambitious amendments to the Broadcasting Act, including substantial changes to the list of organisations that can nominate members of the Council.⁵² Instead of retaining the dominance of State institutions – which currently nominate four members and can easily influence the selection of, at least, the member from Kosovo – they proposed a more balanced composition, described as the “three times three” principle. Three members of the Council would be nominated by Parliament, on behalf of all nominating State institutions of Serbia and Vojvodina. Three members would be nominated by civil society, by relevant NGOs, religious communities and universities. The three other members would be nominated by various professional and media organisations. Presently, all of these professional organisations – which range from drama and film producers to associations of journalists, composers and broadcasters – have only one representative.

This proposal was not accepted, however. Parliament instead amended the Broadcasting Act, selected the new Council, and reappointed two out of three members whose flawed nomination had led to the crisis in the first place. Further complications arose because of the difficulty in the procedure required to determine

⁵² This was a joint proposal by the Independent Association of Journalists, the Association of Independent Electronic Media and the Media Center, who were active throughout various phases of the Council appointment.

which among the wide range of eligible NGOs are relevant to be among those nominating members of the Council. Some of the most active and reputable members of the media and NGO community were dissatisfied with the choice and again boycotted the process.⁵³

The election of the new Council was finally completed in May 2005. However, the second attempt to elect a first RBA Council prolonged the controversy over its political independence. Again, the appointment procedures were extended well beyond the legal deadline, indicating a continuing reluctance to empower the independent broadcasting regulator.⁵⁴ It took nine months to elect the Council, three years after the Broadcasting Act had been passed. Even with the appointment of the second Council, there were some procedural irregularities. Questions have been raised regarding the issue of how representative the present members of the Council are of society and the media community, particularly as no fewer than four Council members had all worked together in a small student radio station for a long period.⁵⁵

In addition, this attempt by the Government and Parliament to deal with the problem of the Council's lack of credibility by amending the act offered a dangerous precedent for any future Government wishing to dismiss the Council. It introduced legal insecurity and undermined the regulator's authority, revealing the Government's ultimate power over the regulator.

A second set of amendments to the Broadcasting Act, proposed by the Government in summer 2005, would further modify the procedure for appointing members of the RBA Council. Under these amendments, it is proposed that the longest first-term mandates should be given to the nominees of the Parliamentary Committee for Culture and Information, whereas previously they had been awarded by drawing lots. The Government argued that the nominees of the Committee contribute more to the "public interest" than those of other authorised nominators. As the Committee's nominees are agreed on in advance between the political parties, and if they can serve for several consecutive terms, this amendment would mean that Parliament (and, in effect, the political parties) could preserve a permanent influence over the composition of the regulatory authority.⁵⁶ There were strong protests against this proposal by associations of media professionals and by some civil society organisations. However, it is expected that the amendments to the Broadcasting Act will be adopted by

⁵³ The Association of Independent Electronic Media (ANEM) and the Independent Association of Journalists (NUNS) decided to withdraw their nomination from the procedure, indicating their dissatisfaction with the way in which the procedure was being conducted. Their joint statement is accessible at <http://www.mediacenter.org.yu/code/navigate.asp> (accessed 4 August 2005).

⁵⁴ In accordance with Article 10 of the amended to the Broadcasting Act, the procedure has to be completed within four months. However, as noted above, this in fact took nine months, with the appointment of the ninth Council member at the parliamentary session of 23 May 2005.

⁵⁵ OSI roundtable comment.

⁵⁶ A critique of the proposed amendments to the Broadcasting Act is available at <http://www.nuns.org.yu/saopstenje> (accessed 4 August 2005).

Parliament without many changes, probably by autumn 2005, as the parties of the ruling coalition seem to have reached a consensus on this issue.

3.2 Licensing

According to the Broadcasting Act, licensing is to be jointly carried out by the RBA Council and the Telecommunications Agency. Once it is applied, the new licensing regime and licence fee payment system could bring order to the chaotic broadcasting scene in Serbia. However, before the first public tender can be prepared, in accordance with the Broadcasting Act and the Telecommunications Act, the allocation of frequencies and further technical aspects of broadcasting must be established by the Telecommunications Agency. In addition, the details of broadcast licence and content requirements must be defined by the newly formed RBA Council.

Licences

The permission to broadcast comprises two parts. The first is the broadcasting station licence – a technical document issued by the Telecommunications Agency. The Agency is foreseen as a regulator in the Telecommunications Act, but was only appointed three years after the adoption of the act, in May 2005. The Agency is to issue broadcasting station licences based on criteria established in the Frequency Allocation Plan, which is prepared by the Ministry of Capital Investment.

The second part is the broadcast licence, which is issued by the RBA Council. All broadcasters require a broadcast licence, with the exception of the public service broadcaster (presently the State broadcaster, RTS) and also local community stations, while they are completely owned by the State.⁵⁷ In cases of mixed ownership, or after privatisation, they will have to apply for a licence like any other commercial operator.

A licence is required for all broadcasting via terrestrial television or radio stations, cable distribution systems and satellite radio communication. It provides the holder with the right to “mount, use and maintain fixed and mobile broadcasting equipment”, in accordance with the provisions of the Telecommunications Law, technical standards stipulated by telecommunications regulations, and in keeping with the Radio Frequency Assignment Plan.⁵⁸

Licences for terrestrial broadcasters are granted after a public tender. The tender is called according to the specifications of the Radio Frequency Assignment Plan for the service area in question. Licences are issued for a period of eight years, but exceptionally also for a shorter period upon the request of the applicant, for the coverage of a single event. Applicants for a tender must provide their technical, organisational and programming concept, as well as their financial documentation and a statement on whether they adhere

⁵⁷ Broadcasting Act, art. 44.

⁵⁸ Broadcasting Act, art. 39.

to the constraints against concentration of media ownership. The Agency issues a licence to cable or satellite broadcasters without calling a public tender and at their request, if they meet the conditions set out in the Telecommunications Law.

Broadcast licences can only be obtained by domestic broadcasters, registered and with their head office or residence in Serbia. A foreign owner may have a maximum 49 per cent share in the overall founding capital of the broadcast licence holder, unless international agreements ratified by Serbia and Montenegro stipulate differently.⁵⁹ Applicants from countries where it is impossible to determine the origin of the founding capital cannot participate in a public tender. Foreign ownership is not allowed for public service broadcasters. The law also excludes two types of domestic institutions from becoming broadcasters – enterprises or institutions established by the State (except the public service broadcaster) and political parties, organisations or coalitions, or any organisation founded by them.⁶⁰

The licensing procedure must be non-discriminatory, meaning that anyone fulfilling the conditions prescribed by the Broadcasting Act, and regulations passed on the basis of the act, may be granted a licence to broadcast a radio or television programme under equal terms. It has to be transparent, which means that the legal procedure must be respected. Finally, the announcement, conditions and all records of issued licences must be publicly known.

Public service institutions have the right to broadcast directly on the basis of the act, but are required to obtain a broadcasting station licence. They also must ensure quality reception of the signal by at least 90 per cent of the population in their service area. Commercial broadcasters must provide quality reception of their signal to at least 60 per cent of the population in their service area.

Once awarded, the licence cannot be ceded, leased or in another manner transferred, even in the event of a broadcaster selling his or her equipment. In such cases, the new owners of the equipment may not start broadcasting prior to obtaining a new licence.

Licensing fees

Broadcasters must pay a fee, which consists of two parts: the broadcast licence fee (for the right to broadcast), and the broadcasting station fee (for the use of a radio frequency). The fee for a broadcasting station licence must be approved by Parliament.

The amount of the broadcasting licence fee depends on the number of residents in the service areas, and on the programming concept – i.e. programme types and variety, and the proportion of self-produced programmes and programmes from independent producers or other domestic broadcasters.⁶¹ The fee needs to be approved by the

⁵⁹ Broadcasting Act, art. 41.

⁶⁰ Broadcasting Act, art. 42.

⁶¹ Broadcasting Act, art. 66.

Government, but the RBA should issue detailed guidelines for setting the amount. The broadcast licence fee for a radio station cannot exceed 20 per cent of the amount set for a television station.

Only commercial broadcasters pay the broadcast licence fee. Public service institutions, radio and television stations of local and regional communities (if State-owned) and civic sector radio and television stations must only pay the broadcasting station fee, and are exempted from the broadcast licence fee.

Media owned by churches and religious communities are exempt from paying “until the completion of the procedure for restitution of the property of those churches and religious communities that were deprived through nationalisation, confiscation, expropriation *et al.* after World War Two”.⁶² This provision indicates that churches and religious communities can also own a radio or television, which in fact has happened with a local radio station, although the public competition has not been called yet. All earlier drafts of the Broadcasting Act had explicitly excluded this possibility. When the final version of the act entered Parliamentary procedure, the Ministry of Religious Communities demanded that this exclusion be omitted, claiming that churches, not being legal persons, are in any case ineligible to register as a radio or television station owner. However, as this exemption from the broadcast licence fee indicates, it is not certain that, when it comes to the public tender, the Ministry’s interpretation will be relevant.⁶³

⁶² Broadcasting Act, art. 67.

⁶³ Comment by a member of the working group that drafted the law. OSI roundtable comment.

Table 5. Licences required for the different types of broadcasters

Type of broadcaster	Licences		Fees	Quality of signal reception
	(1) Broadcasting station licence	(2) Broadcast licence		
Public service station	required	received directly, by law	broadcasting station fee only	at least 90 per cent of the population
Commercial station	required	must apply for a licence	broadcasting station fee and broadcast licence fee	at least 60 per cent of the population
Civil sector station	required	must apply for a licence	broadcasting station fee only	no requirements
Church or religious community	not specified	not specified	broadcasting station fee only	not specified
Local or regional community station	required	must apply for a licence	broadcasting station fee only while State-owned / when privatised, same as other commercial stations	no requirements

Source: Broadcasting Act

3.3 Enforcement measures

The RBA Council is obliged to monitor the compliance of broadcasters with their licences and the work of broadcasters in general. It is authorised to issue warnings to broadcasters and also to revoke the broadcast licence for up to 30 days, if a broadcaster, despite continued warnings, fails to remedy the identified violations. It can permanently revoke a licence if the broadcaster has previously been punished at least three times by a temporary licence revocation.⁶⁴

In Serbia, the public had expected that the Council would start proper and fair licensing procedures soon after the adoption of the Broadcasting Act. Many opponents of the previous regime even perceived this as the Council's historic obligation. The beginning of the Council's work was expected to facilitate not only a rational and efficient use of the analogue spectrum, but also an evaluation of the past performance of existing broadcasters, especially those that were among the pillars of the previous regime. In fact, the Council's remit also implied the opening up of a debate over the

⁶⁴ Broadcasting Act, art. 63.

role of the media during Milošević's regime. There was a strong expectation among independent media and the general public that those media outlets that served or benefited from supporting the regime should face the consequences. This provision was included in the Broadcasting Act, as one of the Council's obligations was to "take into consideration the applicant's contribution, in the previous broadcasting period, to the implementation of principles regulating broadcasting as determined by this law".⁶⁵ With the postponement of the start of the new licensing principles, however, this provision is losing its original purpose and is less likely to be applied.

3.4 Broadcasting independence

All media laws adopted since 2000 include provisions protecting the independence of broadcasters. The Public Information Law states that nobody can, directly or indirectly, limit the freedom of public information, abuse State or private authority to do so, or exert any form of physical or other pressure on a media outlet or its staff, or any form of influence apt to hinder their work.⁶⁶ It further protects journalists by excluding negative consequences following their work, if the work fully respects the law, their professional code and editorial concept, and additionally protects their right to confidentiality of sources.⁶⁷ The Broadcasting Act lists media independence among its basic principles, and prohibits any censorship or influence on the work of public media outlets.⁶⁸ It specifically requires the public service broadcaster to ensure that its programmes, especially news and current affairs reporting, are protected from any influence by the authorities, political organisations or economic interests.⁶⁹

Nevertheless, in March and April 2004, the Government of Serbia appointed a new Director General and afterwards a new Governing Board of RTS, citing as the source for its competence to do so the Law on Public Enterprises and Related Areas of Public Interest. Thus, the Government bypassed the Broadcasting Act and its provisions, apparently considering it inapplicable until the RBA Council became operational. The appointment followed a few hours after the outburst of ethnic violence against Serbs in Kosovo, on 17 March 2004. The Government expressed its dissatisfaction with the coverage of these events by RTS.⁷⁰ By using programme performance as the argument for intervention in a sensitive situation of massive ethnic violence, it confirmed that it would assume "national obligations" to take precedence over professional standards for RTS. The Governing Board of RTS resigned in protest against the Government's

⁶⁵ Broadcasting Act, art. 53.

⁶⁶ Public Information Law, art. 2.

⁶⁷ Public Information Law, art. 31, 32.

⁶⁸ Broadcasting Act, art.3.

⁶⁹ Broadcasting Act, art. 78.

⁷⁰ Statement of the Minister of Culture and Media, Dragan Kojadinović, quoted in the daily *Blic*, 20 March 2004.

appointment of the new Director General, and the cabinet appointed a new Board within a month.

In this episode, the Government took advantage of the legal vacuum in which RTS is still operating, and treated it as any other public company, ignoring the fact that, due to the particular role of broadcasting in society, it enjoys special legal protection. The decision was made in the form of a decree, thus failing to provide for any transparency in the appointing procedure. Contrary to its declared commitments to ensure the implementation of a legal framework for the public service broadcasting service, which clearly stipulates its editorial independence and institutional autonomy, the Serbian Government used the opportunity to directly appoint the management. Instead of a structural transformation, the Government opted for a change of personnel, and instead of refraining from political influence on the public service broadcaster, it returned RTS to the position of a State broadcaster. With the management appointed by the Government and funding coming from the State budget, RTS becomes both politically and financially dependent on the Government of the day.

In its first move in the media field, the Government – by failing to provide the functional, legal and institutional framework for the development of broadcasting according to established European standards – on this occasion committed an act of crude political interference in the management structures of what was supposed to become a public service broadcaster. It ignored the fact that public service organisations should contrast with their State-run counterparts in that they should accomplish their missions independently, without interference from the public authorities or any other external meddling.

Among the first decisions of the new Director General, Aleksandar Tijanić, was to return the third channel to the RTS structure, arguing that it was illegally being prepared to be cheaply sold off. However, even if this were the case, the Broadcasting Act specifically states that the public broadcaster operates two national channels, meaning that RTS is not expected to engage itself in finding a solution for the third channel.⁷¹ The Director General's decision reveals a fundamental misunderstanding of the future position of the public service broadcaster, which has to be achieved through a legal transformation. Avoiding serious structural transformation, under its new Director General, RTS instead started to change by getting involved in celebrity-style transfers of media personnel from other television stations. The absence of institutional restructuring was obscured through an attempt to “buy” credibility from other broadcasters by acquiring their successful programmes or staff. When several journalists joined RTS, they had the approval of the owner of BK Telecom, Bogoljub Karić – a Serbian business oligarch who recently also turned politician – who claimed that ceding some of his best journalists would help to strengthen “national television”.

⁷¹ “The Broadcasting Institution of Serbia shall broadcast its radio programme on three channels within the MF band and three channels within the VHF band, and its television programme on two channels within the VHF/UHF band.” Broadcasting Act, art. 84.

For its part, the Government supported RTS by extending budgetary subsidies to the amount of almost the entire spending on culture of the Ministry. This joint support indicates a political arrangement to support what public officials and others in Serbia often call “national television”. In official parlance, this label is substituted for public service broadcasting. It reveals a serious discomfort with the notion of the Government losing control over public service broadcasters. Besides a deep misunderstanding of the notion itself, it also shows a basic disrespect for the public role and responsibility of the media. This fascination with the importance of a “national institution”, in this case RTS, keeps the fantasies of “national grandeur”, with all its dangers, high on the State broadcaster’s agenda.

Broadcasting independence in Serbia is often understood as a broadcaster’s choice, rather than a structural matter that should be provided and secured by external and internal instruments. This attitude reflects the long tradition of operating under irregular conditions. Most of the present media organisations emerged during the years of repression of press freedom (1990–2000), and such an environment is the only one with which they are familiar. Even among journalists, editorial independence is regarded as a normative concept rather than a routine professional approach. Independence is often understood more to pertain to individual courage and determination than to be a professional obligation. Also, independence is widely understood to consist of keeping a distance from the authorities. This approach often equates independence only with the simplified “right to criticise”. This has serious implications for the professional climate and media quality by minimising the importance of financial pressures upon media independence.

The media in Serbia survived a most difficult decade between 1990 and 2000, both politically and economically. The past five years, after the authoritarian rulers were ousted, were also not easy. What helped the media to carry on was underpaid labour, cheap products, disrespect for copyright, and similar problematic methods. In such circumstances, media independence was not protected or even stimulated. Especially in broadcasting, ensuring independence was often not distinguished from other business competencies of the owners. All major commercial channels credit their own news and current affairs coverage with being impartial and independent, but none of them has any documents protecting the internal freedoms of their journalists. The majority among the commercial channels do not even rely on their own news coverage, but carry extensively reports provided by news agencies. They do not even appear to be aware of this issue. Encouraging investigative journalism is also not a topic.

Nevertheless, several independent media that built their reputation in the 1990s still stage campaigns in defence of media freedom and independence, whenever necessary. Through their professional or business associations, they have developed internal professional guidelines, or ethical codes, in the absence of general standards acknowledged by the profession. Trade unions or professional associations have not yet established the practice of bargaining collective agreements with the media owners, and

so the relations between owners, editors and journalists, especially the mutual obligations, are not yet formalised.

The owners' agenda is obviously obligatory for programme makers. In two major cases since 2000, TV Pink staged a campaign against a Belgrade professor who had called for a public investigation into this organisation because of its ties to the previous authoritarian regime. TV Pink attacked the professional and personal reputation of the professor, openly abusing its news coverage for this purpose. The case is still in court.⁷² BK Telecom, the second largest commercial channel, openly supported its owner's political campaign when Bogoljub Karić ran as a presidential candidate in June 2004. He came third. According to the results of monitoring conducted by distinguished professionals, Karić was obviously favoured throughout the BK television programmes and by the media believed to be close to the Karić family.⁷³ BK Telecom did not accept these allegations, but nevertheless the issue of the "berlusconisation" of the media in Serbia entered the public debate. The Broadcasting Act prohibits political parties from owning television stations, but there is still no authoritative interpretation as to what the legal consequences are when the same person owns both a political party and a television station.

In the absence of a properly functioning RBA Council, media performance is still not systematically monitored. If threats to media independence are publicly discussed, they are still understood to consist in most cases of political pressure. The real, more comprehensive picture, which would also include the relations between media owners and the staff of media organisations, is not yet on the agenda of the professional community and the public as a whole.

4. REGULATION AND MANAGEMENT OF PUBLIC SERVICE BROADCASTING

During the 1990s, the State broadcaster, Radio Television Serbia (RTS), was under the direct control of the regime and was its most important propaganda instrument. The Broadcasting Act (2002), adopted after the democratic changes in 2000, foresaw the transformation of RTS into two separate public service broadcasters – the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina. This transformation should have been completed by 30 January 2003, but this obligation was not fulfilled.

⁷² The history of this case is available in Serbian at <http://www.b92.net/specijal/pink> (accessed 4 August 2005).

⁷³ The Media Center, an NGO that supports media development in Serbia, established a team of five distinguished professionals to monitor the election media coverage, and this is one of their findings. They issued seven reports from 24 April to June 14 2004, available in Serbian at <http://www.mediacenter.org.yu/code/navigate.asp> (accessed 4 August 2005).

RTS has preserved its position as audience leader, despite its lost credibility during the years of authoritarian rule in Serbia. The major competitor to its first channel, RTS 1, is the strongest commercial channel, TV Pink, but when all three RTS channels are taken together, then the State broadcaster is firmly in the leading position. Its total audience share in 2004 was 33.3 per cent for television and 12 per cent for radio.

4.1 The public service broadcasting system

During the 1990s, RTS was under the direct control of the Milošević regime, which used it as its chief tool of political propaganda. More than 1,000 journalists and other staff were forced to leave RTS because the regime considered them politically unreliable. Many distinguished professionals among these later joined other media and continued to oppose repression. Subsequently, professional standards were degraded, as “patriotic journalism” became the norm at RTS.

With its exceptionally high ratings in the early 1990s, RTS was initially the major instrument for achieving national mobilisation and sustaining public support for the nationalist policy of the regime. However, the influence of RTS on the Serbian public soon started to deteriorate. As a promoter of militant policies, State television manipulated and discriminated, and relied on hate speech as a major form of political communication to such grotesque proportions that it destroyed its professional reputation and subsequently its credibility with the audience. Due to international sanctions against the then Federal Republic of Yugoslavia and isolation from international exchange, both RTS’s technical infrastructure and its programme content seriously lagged behind the standards of the time.

On several occasions during the 1990s, major civic protests against RTS were staged, sometimes resulting in clashes with the police. During the 1996–1997 demonstrations, lasting three months, against an attempt of the regime to fake the outcome of municipal elections in Serbia, the RTS building was one of the major destinations of dissatisfied citizens. Also, during the RTS prime-time news hour, throughout the major cities dissatisfied citizens – on streets, in front of their houses, on balconies – hit pans, rang bells and produced all kinds of other noises, as a form of protest against the regime propaganda on television.

During the attack on Serbia in the spring of 1999, on the night of 23 April, NATO bombed the RTS headquarters in Abardareva Street, in the heart of Belgrade, justifying this unprecedented decision by citing the role of State television as the regime mouthpiece. The bombs killed 16 RTS staff members who were on duty that night.

Leading international human rights and media organisations vehemently protested against the action, and condemned military attacks on media outlets.⁷⁴

NATO also destroyed a series of other RTS editorial offices and technical installations, such as the building of TV Novi Sad, the Avala television tower, and sites in Zvečka, Jastrebac and Kopaonik. Altogether 84 locations suffered a complete destruction of studio equipment, aerial and transmission systems, and other technical assets. A rough estimate of the material losses was €350 million. In June 1999, when the Serbian police and army left Kosovo and NATO troops moved in, RTS abandoned its Priština studio along with the greater part of its property there.

The decade closed with the State broadcaster being attacked as one of the symbols of the regime that it had so diligently served. During the anti-Milošević demonstrations on 5 October 2000, protestors stormed the RTS headquarters and set it on fire. Broadcasting ceased for several hours and was restored under a new RTS symbol. The darkest hours of RTS were apparently over. Yet the genuine transformation of RTS is still a fundamental political issue in Serbia, involving a wholesale change of the broadcaster's mission in society.

However, apart from normative and organisational changes, successful transformation into a public service would require solving many other problems of RTS, including technological, financial and personnel problems. Many years of destruction, a run-down system of transmitters, old-fashioned production equipment and enormous debts, as well as complicated employment issues, all heavily burden the company. The station's negative reputation and the high level of general poverty in the country obviously hinder the reintroduction of the licence fee as a way to stabilise its financial resources.⁷⁵

The Broadcasting Act (2002) introduced the concept of public service into the broadcasting sphere by assigning the republican and provincial broadcasting organisations the task of providing "public service broadcasting". The act also listed their special obligations in fulfilling the public interest in the sector. The act foresaw the transformation of the public company RTS from a State-owned and controlled entity into two separate public service broadcasters – the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina (Serbia's northern province). For the time being, however, RTS is organised as a public enterprise consisting of RTV Belgrade, RTV Novi Sad and RTV Toplica (a new centre replacing the abandoned RTV Priština), and the RTS Music Production Company (PGP).

⁷⁴ "IFJ Condemns NATO Bombing of Media: a Broken Promise that Threatens the Lives of All Journalists and Media Staff", press statement by the International Federation of Journalists, 23 April 1999; Amnesty International issued a statement expressing grave concern on 23 April 1999. See: Amnesty International, *'Collateral Damage' or Unlawful Killings? Violations of the Laws of War by NATO During Operation Allied Force*, 2000, pp. 47–48, available at http://www.amnesty.org/ailib/intcam/kosovo/docs/nato_all.pdf (accessed 2 May 2005).

⁷⁵ OSI roundtable comment.

The Broadcasting Act established special responsibilities for the public service broadcasters in terms of both structures and programme content. The public service broadcaster is obliged to cover 90 per cent of the republic's territory with a high-quality signal. RTS should operate three radio channels and two television channels. RTV Novi Sad operates two regional television channels. As for the management structure, the RTS Governing Board should be appointed by the RBA Council, while the board appoints the Director General after a public call for applications.⁷⁶ (See section 4.4.)

Besides general programme standards, the Broadcasting Act determines the obligations and remit of the public service broadcaster in terms of content. It indicates "specific obligations in achieving public interest", although this rather vague requirement leaves room for arbitrary interpretations.⁷⁷ Other similarly vague provisions throughout the law reflect a misunderstanding of the public service role by placing upon the broadcaster obligations, such as those to "respect the traditional spiritual, historical, cultural, humanitarian and educational importance and role of the churches and religious communities in society".⁷⁸

The most important obligation of the public service broadcasters is to produce and broadcast programmes with informative, cultural, art, educational, religious, scientific, children's, entertainment, sports and other content, meeting the needs of all citizens. Programmes must ensure diversity and balance of content, and uphold the democratic values of a modern society, particularly the respect for human rights and cultural, national, ethnic and political pluralism of views and opinions.⁷⁹

Some areas of the public service broadcasters' conduct are more closely regulated. For example, in their news programmes, they are obliged to adhere to principles of impartiality and fairness, to uphold freedom of speech and pluralism of opinion, and to prevent any form of racial, religious, national, ethnic, gender-based or other intolerance or hatred.⁸⁰

The public service broadcaster – as well as the local and regional media, if they are predominantly State-owned – are also obliged to provide programming for ethnic minorities. While no quotas are assigned for programming in minority languages, public service broadcasters are obliged to "adhere to linguistic and speech standards not only of the majority population but also, proportionately, of national minorities and ethnic groups in the area where the programme is being broadcast".⁸¹

⁷⁶ Broadcasting Act, art. 87, 89.

⁷⁷ Karol Jakubowicz, a Council of Europe expert, addressed this issue in one of his final comments on the Draft Broadcasting Act, dated 15 April 2002. See: Council of Europe, Analysis and Comments in the Draft Serbian Broadcasting Law, CoE ATCM (2002), available at http://www.osce.org/documents/mc/2004/02/2491_en.pdf (accessed 4 August 2005).

⁷⁸ Broadcasting Act, art. 78.

⁷⁹ Broadcasting Act, art. 77.

⁸⁰ Broadcasting Act, art. 77-79.

⁸¹ Broadcasting Act, art. 78.

According to the Broadcasting Act, RTS was supposed to be transformed into a public service broadcaster by 30 January 2003 at the latest. However, this obligation was not fulfilled. In the absence of an active Broadcasting Council, a new governing structure of RTS was not appointed, the division of assets was not made, and other necessary decisions concerning transformation were not taken. Since February 2003, RTS has therefore been operating in a legal vacuum. It cannot be considered a public service broadcaster, but it is also no longer a State-owned and controlled broadcaster, since the Broadcasting Act replaced the Law on Radio and Television.

The Ministry of Culture and Media responded to this ambiguity in summer 2005, by proposing amendments to the Broadcasting Act, to extend the RTS transformation deadline, while granting it the right to start collecting the licence fee. At this time, the newly appointed RBA Council was also strongly supporting the immediate re-introduction of the licence fee, even though RTS has not yet been transformed into a public service broadcaster. In other words, RTS would start receiving licence fee money without having fulfilled the legal obligation to become a public service broadcaster. However, the RBA's legal remit is to enforce this transformation, the purpose of which is, primarily, to create an independent public service broadcaster in Serbia. So instead of executing what the law asks them to do - and also what has been one of the central issues of political transition in the country since the abolition of authoritarian rule - the RBA is instead helping to prolong the present situation, in which many critics see RTS as being, once again, a thinly-veiled mouthpiece of the Government. The present Director General is insisting on RTS having the role of "national television", which is not foreseen by law but is an ideological construction strongly resembling concepts of State television.

There has been strong opposition by associations of media professionals, civil society organisations and some political parties against the re-introduction of the licence fee before the transformation of RTS into a public service broadcaster is achieved. However, in August 2005, Parliament passed amendments to the Broadcasting Act which both introduce a mandatory licence fee, as of 1 October 2005, while extending the deadline for the transformation of RTS until 30 March 2006.

4.2 Services

RTS says that it covers 97 per cent of Serbia's territory with its signal, but that only 65 per cent receive a signal of the highest quality.

The activities of RTS include broadcasting television and radio programmes, producing radio and television programmes, producing music and also live outdoor and indoor broadcasts, and running music orchestras, as follows:

- national television channels: RTS 1, RTS 2, 3K (the third RTS channel), viewtext and RTS Satellite;
- regional television channels: Novi Sad 1 and Novi Sad 2;

- radio channels: Radio Beograd First Programme, Radio Beograd Second Programme, Radio Beograd Third Programme, Beograd 202, Radio Beograd Stereorama, Programme 101, Radio Novi Sad, Radio Niš (including Music Production);
- music orchestras: Symphony Orchestra, Jazz Orchestra, Grand National Orchestra, Small National Orchestra, Mixed Choir and Children's Choir;
- PGP (audio and video production and publishing);
- RTS websites.

The status of Radio Television Priština, as well as the future of 3K, remains unresolved. The former is pending the regulation of the political status of Kosovo, and the latter awaits the implementation of the Broadcasting Act.

In spite of competition from commercial stations, RTS is still the leading broadcaster in terms of audience share (see Table 2). Its only serious competitor is the strongest commercial channel, TV Pink, but combined, the three national RTS channels are firmly in the leading position. RTS's total audience share in 2004 was 33.3 per cent for television and 12 per cent for radio.

Oscillation between the channels is indicative of audience loyalties and their reaction to programme changes. Whereas the audience share of RTS 2 stayed almost unchanged from 2003 to 2004, that of RTS 1 increased. The audience share of RTS's third channel (3K) considerably decreased in the same period – this was mostly because the station stopped daily repeats of popular domestic serials in prime time.⁸²

4.3 Funding

Present funding

The Law on the Budget of the Republic of Serbia for the Year 2004 envisaged CSD 3.2 billion (approximately €40 million⁸³) for financing RTS.⁸⁴ In addition, RTS expected to receive a further €15 million in that year from commercial and other revenues. The number of RTS employees is decreasing, and in December 2004 stood at 6,113.⁸⁵

⁸² OSI roundtable comment.

⁸³ The exchange rate used in this calculation is €1=60 CSD, as it was at the time of the budget planning. The exchange rate in August 2005 was €1= 84 CSD.

⁸⁴ The Law on the Budget of the Republic of Serbia for the Year 2004, *Official Gazette of the Republic of Serbia*, No. 33/04. Available in Serbian at http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=127&t=Z (accessed 4 August 2005).

⁸⁵ "U toku 'operacija' smanjenja broja zaposlenih u RTS-u", ("An operation to cut the number of employees at RTS has been launched"), in *Dnevnik*, Novi Sad, 4 July 2005, p. 6.

RTS expenditures for 2002 are as shown below, in Table 6. Although RTS is funded by taxpayers' money, its spending has seldom been a public issue, and no procedures exist for a public review of its expenditures. According to the Auditor's Report for the year 2003, its financial operations were not properly conducted, and therefore did not deserve a completely positive review.⁸⁶

Table 6. RTS expenditure structure (2002)

Type of expense	Share of total budget (per cent)
Programme purchase and production expenses	12
Other expenses	28
Payroll	54
Tax and contributions	0
Depreciation	6

The proposed RTS budget for 2005 was 2.8 billion CSD (or approximately €33.5 million). However, during summer 2005 this was reduced by the Ministry of Finance to 2.3 billion (or approximately €27.5 million). This provoked strong reactions from RTS – with its Director General even predicting the bankruptcy of RTS if this decision were to be put into force – and, in reaction, an immediate proposal from the RBA Council to re-introduce the licence fee as of September 2005. This, in turn, led to a public debate about the right of RTS to start collecting a licence fee, before its transformation into a public service broadcaster. It also raised fears that this transformation, if not stopped, would definitely start off on the wrong footing.⁸⁷ The debate also revealed that the Ministry is prepared to write off the debts of RTS, to the tune of almost €30 million, and that RTS needs an initial assistance of €10 million for its transformation process. According to its Director General, RTS needs at least €60 million per year to function normally.⁸⁸

Finally, in August 2005, Parliament re-introduced a mandatory licence fee that all viewers and listeners will have to pay, together with their electricity bill, starting from 1 October 2005. The fee was set at CSD 300 (€3.6).

⁸⁶ Auditor's Report, 30 June 2004, internal document.

⁸⁷ As of 15 July 2005, when the Minister of Finance announced budget cuts for RTS, and the RBA Council responded with proposals to introduce a licence fee as of September 2005, RTS's finances became widely debated and data about its financial condition was for the first time widely publicly known. Further information available at http://www.mediacenter.org.yu/code/navigate.asp?Id=6&from_date=1/1/2000&to_date=8/22/200 (accessed 15 August 2005).

⁸⁸ "Tijanac: Mogu da posumnjam da neko zeli da budemo bedna mala TV", ("Tijanac: I suspect that some one wants us to be a small, poor TV"), in *Blic* (daily), 18 July 2005.

Planned reforms

The financing of the future public service broadcasters is regulated by the Broadcasting Act, but its provisions have not yet been implemented.⁸⁹ The act stipulates that the primary source of income for the RTS is the licence fee. The legislature considered that this would be the most appropriate way to allow independent financing of the public services. The licence fee is universal, being paid by all households that own a radio or television receiver.

State television in Serbia was, since its establishment, funded by licence fee. However, in the early 1990s, as the number of subscribers paying the fee rapidly decreased due to the political and economic crises, this form of payment was abolished. Instead, funding for the State broadcaster came from a tax added to electricity bills.

From 2001, the Government decided to fund RTS provisionally from the State budget, until Parliament decides on a lasting solution. By adopting the Broadcasting Act in 2002, Parliament also determined the initial funding level for RTS.

Public service broadcasters were obliged to establish a register of subscribers by 1 December 2002, but they are not entitled to control the ownership of receivers in a manner that would jeopardise the citizens' constitutional rights.⁹⁰ The act determined that the collection of the licence fee should start from February 2003. However, as none of the other public service broadcasting transformation deadlines was met, and RTS had not changed its legal status by this date, the re-introduction of the licence fee system has been postponed indefinitely.

If and when the licence fee system starts to operate, the licence fee is to be harmonised with the retail price growth index in Serbia. It will be paid on a monthly basis, by the 15th day of the current month, for the preceding month. The licence fee is to be collected by a publicly owned company offering the most favourable conditions. According to the law, the RBA is in charge of supervising and ensuring the consistent application of the provisions of the Broadcasting Act, including the introduction of the subscription fee. Of the revenue collected from the subscription fee on the territory of the autonomous province of Vojvodina, 70 per cent will belong to the province's public service broadcaster. The Broadcasting Institution of Serbia must pay 1.5 per cent of its monthly income from the licence fee to a separate account of the Republic of Serbia, to support the domestic film industry.

4.4 Governance structure

RTS is governed by the Governing Board and the Director General, with the Programme Board as a consultative body.

⁸⁹ Broadcasting Act, art. 80-84.

⁹⁰ Broadcasting Act, art. 81.

Although the Broadcasting Act sets out in detail the appointments system for the RTS management bodies, as yet these have not been implemented, due to the delay in appointing the RBA Council (see section 3.1). In March-April 2004, the Government of Serbia bypassed the Broadcasting Act's provision and instead directly appointed a new Director General and Governing Board of RTS, citing as the source of its competence to do so the Law on Public Enterprises and Related Areas of Public Interest (see section 3.4). The new Broadcasting Council is expected to appoint the Governing Board, which would subsequently conduct a procedure to elect the new Director General and provide RTS with undisputed governing bodies.

According to the Law, the RTS Governing Board consists of nine members, appointed by the RBA Council from the ranks of journalists and experts in media, management, law and finance, as well as from among other public figures. The law excludes members of the Serbian and provincial parliaments and public authorities, or officials of political parties, as well as Broadcasting Agency members, from serving on the board. Members are appointed for five years, with a maximum of two consecutive terms.⁹¹

The Governing Board is autonomous in performing its duties, which, among others, include the following:⁹²

- adopting the statute of the broadcaster (with the consent of the RBA Council), business plans and reports on activities, with the obligation to inform the public, the RBA and Parliament;
- appointing the Director General, after a public call for applications;
- approving bylaws prepared by the Governing Board;
- adopting investment plans;
- considering recommendations of the Programme Board;
- determining modes of registering and cancelling the registration of radio and television receivers.

The Director General executes the decisions of the Governing Board and is responsible for the business activities of the broadcaster, as well as being accountable for its programming concept. The Director General proposes to the Board the appointment of the Directors of Radio and Television and Editors-in-Chief. The appointment is for four years with a maximum of two consecutive terms.⁹³

According to the Broadcasting Act, all accounts and financial statements of the public service broadcaster are subject to an annual audit by an independent authorised

⁹¹ Broadcasting Act, art. 87.

⁹² Broadcasting Act, art. 89.

⁹³ Broadcasting Act, art. 90.

auditor. The act does not state any accountability requirements for the Governing Board or the Director General.

4.5 Programme framework

4.5.1 Programming

RTS is the biggest producer of radio and television programmes in Serbia. According to in-house data from 2003, RTS transmitted 26,280 hours of programmes on its three terrestrial channels, and 24-hour satellite programming of 8,760 hours. In 2003, the ratio between domestic and foreign programmes increased in favour of domestic works, from 64 per cent in 2002 to 77 per cent in 2003, and RTS produced 9,399 hours of new television programmes. In 2004, RTS transmitted 96 hours of programming daily. According to internal data, the programmes were mainly from RTS's own production, ranging from 58 per cent on 3K to 95 per cent on RTS 1.⁹⁴

News bulletins have traditionally attracted the widest audience to RTS 1, and they still top the list of its most watched programmes. Quite often, RTS news bulletins reach record ratings of the week, only followed by the soap operas and the music or the quiz shows of commercial channels. No other daily news programme has ever enjoyed such high ratings. However, it was also the RTS news production that always attracted special attention and criticism, as it has traditionally been biased in favour of the Government and the ruling party. After 2000, RTS achieved editorial autonomy and increased its efforts to respect the pluralism of opinions. Nevertheless, the proximity of the RTS editorial policy to the Government, which still exerts financial and political influence over RTS, is still a major source of concern on the part of the critical public.

⁹⁴ Information from the RTS website, at http://www.rts.co.yu/rt_s_onama.asp (accessed 4 August 2005). RTS is the only broadcaster in Serbia with a website only in Serbian.

**Table 7. Programme output of RTS 1 and RTS 2
– breakdown by genre (January-March 2005)**

	Share of total output (per cent)	
	RTS 1	RTS 2
Information	36.4	19.3
Documentaries	1.4	9.1
Culture and arts	2.6	4.6
Religion	0.7	0.7
Science	1.4	3.0
Education	0.9	5.5
Music	3.8	4.9
Children	0.2	6.6
Fiction	17.1	7.4
Film	14.0	8.9
Entertainment	12.5	1.8
Sports	1.0	14.9
Advertising	6.4	5.1
Other	1.6	8.3

As shown below in Table 8, of the 15 top-rated shows in December 2004, eight were RTS programmes. On 1 December 2004, the RTS main evening news bulletin (*Dnevnik2*) was ranked first (20.7 per cent), and the top ten included two RTS domestic reality shows (third and eighth position) and two serials (fifth and ninth position).

Table 8. Programme ratings (29 November to 5 December 2004)

Rank	Title	Date	Channel	Audience share (per cent)
1	<i>Dnevnik2</i>	01.12.2004	RTS 1	20.7
2	<i>Serija: Rubi</i>	02.12.2004	PINK	18.4
3	<i>Jednostavanzivot</i>	05.12.2004	RTS 1	17.7
4	<i>Izborza Miss World 2004</i>	04.12.2004	PINK	16.7
5	<i>Serija: Lift</i>	05.12.2004	RTS 1	15.6
6	<i>Grandshow</i>	03.12.2004	PINK	14.7
7	<i>Milioner</i>	29.11.2004	BK	14.2
8	<i>48 Satisvadba</i>	01.12.2004	RTS 1	13.9
9	<i>Serija: Porodicno Blago</i>	01.12.2004	RTS 1	13.8
10	<i>Serija: Skriv Enestra Sti</i>	02.12.2004	PINK	13.8
11	<i>Sre_Ni Telefoni</i>	04.12.2004	RTS 1	12.3
12	<i>Kviz: Slagalice</i>	30.11.2004	RTS 1	12.2
14	<i>Kviz: Sam Protiv Svih</i>	03.12.2004	RTS 1	11.9
14	<i>5 do 12</i>	01.12.2004	PINK	11.3
15	<i>Magazinin</i>	04.12.2004	PINK	11.2

Source: AGB Nielsen Media Research⁹⁵

4.5.2 Quotas

General programme quotas for all broadcasters are set by the Broadcasting Act. At least half of the total programming must be in the Serbian language, and not less than 50 per cent of it must be self-produced. Additionally RTS and the local and regional broadcasters, if they are predominantly State-owned, are obliged to include in their annual airtime at least 10 per cent of independent productions. Not more than 50 per cent of such programmes may be more than five years old.⁹⁶

However, in the absence of programme monitoring, it is not known whether RTS respects the obligatory quotas stipulated in the Broadcasting Council. According to internal claims, the only quota not fulfilled is the new legal obligation to include 10 per cent of programmes from independent producers.⁹⁷

⁹⁵ AGB Nielsen Media Research, *Overview: January-July 2005*.

⁹⁶ Broadcasting Act, art. 74.

⁹⁷ OSI roundtable comment.

4.6 Editorial standards

The major RTS document defining editorial standards is the programme policy that has to be adopted by the Governing Board.⁹⁸ Other internal decisions or resolutions from the Governing Board's meetings, as well as recommendations and decisions of the Programme Board, are obligatory guidelines for the programme producers.

There are no permanent internal programme guidelines, but there are topical instructions regulating organisational, business, professional and other issues. According to the official RTS website, these are guidelines to programme producers, who are encouraged not to "create but to represent public opinion", although "as an influential instrument, RTS plays an enormous role in increasing the general educational level of the population and [...] a role in the preservation and development of society's cultural potential".⁹⁹

5. REGULATION AND MANAGEMENT OF COMMERCIAL BROADCASTING

Commercial broadcasting is a relatively recent but prolific industry in Serbia. Over the past 15 years, so many new radio and television stations have emerged that the spectrum has become congested. The two largest commercial broadcasters, TV Pink and BK Telecom, emerged almost simultaneously at the end of 1994. TV Pink is the most successful among the private broadcasters, in terms of both market and audience shares. TV B92 – the offshoot of Radio B92, which became Serbia's most famous independent radio station during the Milošević years – is a rare exception among private media, by virtue of placing the public interest ahead of commercial benefits.

General anti-monopoly regulation and foreign ownership restrictions are contained in the Public Information Law. The Broadcasting Act limits foreign media ownership by requiring that the broadcast licence holder be registered or have a residence in the country. Foreign ownership is limited to 49 per cent in the overall founding capital of a media company. So far, there has been no major foreign investment in the broadcasting sector. The only significant foreign ownership is a 48.06 per cent share in the B92 joint-stock company acquired by the Prague-based Media Development Loan Fund, an offshoot of the Soros Foundations Network, in November 2004.¹⁰⁰

⁹⁸ Informacije o nama, (Information about us), information from the RTS website at <http://www.RTS.co.yu> (accessed 4 August 2005).

⁹⁹ These are listed as principal RTS programme guidelines. See: Informacije o nama Orijentacija!, (Information about us. Orientation!), information from the RTS website at <http://www.RTS.co.yu> (accessed 4 August 2005).

¹⁰⁰ More on the ownership and privatisation of TVB92 available at <http://www.b92.net/english/aboutus/ownershipstructure> (accessed 4 August 2005).

5.1 The commercial broadcasting system

Serbia's airwaves are jammed by a huge number of programmes from private broadcasters. This reflects the disordered licensing policy of the previous decade, when licences were granted arbitrarily, and mainly for political reasons. In addition, many outlets also took advantage of the regulatory void by operating without any licence.

Beneath this colourful surface, major media have established themselves firmly in the market. Three commercial channels have already reached national coverage, and a few more have attempted to become regional channels. The two largest channels, TV Pink and BK Telecom, emerged almost simultaneously at the end of 1994. Both companies have diversified business interests.

TV Pink

TV Pink is the most successful commercial channel, in terms of both market and audience shares. Soon after its establishment, TV Pink became a market leader, only competing with RTS for audience shares, and attracting more than 40 per cent of advertising revenues at present. TV Pink grew out of a recording studio, initially as an all-entertainment radio station. The concept proved to be successful, and within a few months Radio Pink became the most popular radio station in Belgrade.¹⁰¹

When the company started a television channel in 1994, entertainment was its major focus. As it said in its internal document "the content of the programming – no news, no sports, just entertainment – resulted in rapid success." As this was a period of wars in the former Yugoslavia, with flourishing nationalism, international sanctions and economic destruction in Serbia, TV Pink's success in making huge profits from selling escapist entertainment made it one of the major beneficiaries and even cultural symbols of the regime. It was the only television company required to pay extra profits, a one-time tax which was introduced as a measure against companies suspected of profiteering during the war years.¹⁰²

After 2000, TV Pink started to produce news programming and began to distance itself from so-called turbo-folk music, cheap entertainment and unlimited advertising. However, TV Pink still has a predominant entertainment profile. It also became the

¹⁰¹ Pink International, *Company Information for the Year 2003*, (company promotional publication) p. 3.

¹⁰² The Law on One-time Taxation on Extra-profits or Extra Property Acquired under Special Conditions, passed on 23 June 2001, was one of the much-debated and expected measures against those who made a fortune during the previous regime, but it never really fulfilled the high expectations surrounding it. On the first anniversary of its application, the then Minister of Finance announced that TV Pink was to be taxed 2.4 million CSD, while a BK company was expected to pay 75.9 million CSD. Further information on the law's application is available in Serbian at <http://www.mfin.sr.gov.yu/html/modules.php?op=modload&name=News&file=article&sid=126> (accessed 4 August 2005).

most successful commercial television operation in South-eastern Europe, after launching TV Pink BIH (Bosnia and Herzegovina) and TV Pink M (Montenegro) as independent members of Pink International. Pink International is the only television company in South-eastern Europe itself coming from the region with affiliated stations operating in more than one country in the region. They are members of the same media company, although each station operates as a “domestic” company and is licensed and regulated by the country concerned. Both in Bosnia and Herzegovina and Montenegro, TV Pink became one of the most popular channels very quickly. Its satellite and cable programmes are also widely watched from Slovenia to Bulgaria.

BK Telecom

BK Telecom is the second largest commercial channel in terms of its audience share. It is owned by the Karić family, one of the country’s richest families, who made their fortune during the 1990s and who also were among the few to pay the tax on extra profits after 2000.

The BK group is the major shareholder of Mobtel, one of the two mobile telephone operators in Serbia, and also owner of EUnet, the largest Internet provider in the country, and publisher of several magazines and possibly newspapers (because the ownership of some tabloids is not transparent). The station proudly announces that it “began operating with the motto ‘Symbol of good television’, with the first show on air called *Little Serbian Reader*”.¹⁰³ It maintains an image of a traditional, religious, enterprise with deep family roots in Kosovo, where the Karić family comes from. Close connections between media and political power became a major public issue when the company’s leader, Bogoljub Karić, contested the 2004 presidential elections. According to many, much of his success – he attracted almost one fifth of the votes cast – was thanks to the propaganda support of his television station (see section 3.4). Support for his political activities followed on from the support that the channel has always provided for his corporate and family interests.

BK Telecom has also announced plans to expand in the region, by establishing a Balkan News Network. After its owner launched his political career and established a political party, concerns have been raised about the legality of his ownership, as the Broadcasting Act prohibits political parties from owning broadcasting stations.¹⁰⁴ Stories occasionally surface in the media about selling the channel to “a major foreign company”, but nothing has been confirmed as yet.

Thus, Serbia, which has the least regulated and most devastated media environment in South-eastern Europe, is becoming a centre of lively expansion of television businesses. It seems as if some new commercial, “non-ideological television”, as promoted by TV Pink, is expected to restore the cultural connections between the now independent States of the

¹⁰³ Information from the BK TV website, available at <http://www.bktv.com/index.php> (accessed 15 January 2005).

¹⁰⁴ Broadcasting Act, art. 42.

former Yugoslavia that the heavily ideological State broadcasters once helped to destroy. So far, no major international media company has been interested in this task. For the time being, TV Pink, the company that in many respects symbolised the cultural and media production of the authoritarian policies of the 1990s, is attempting this.

TV B92

TV B92 is the most recent of the three commercial stations, but has the longest history in broadcasting. It is the offshoot of Radio B92, the most famous independent radio station during the years of Milošević's regime. It was also a source of powerful political and cultural alternatives during the 1990s. It survived many attempts to shut down its operation and diminish its influence, and is one of the rare exceptions as a medium that placed public interest ahead of commercial benefits.

TV B92 was launched on the eve of the autumn 2000 elections, with a strong sense of public responsibility and serious programming. However, it cannot escape the blunt dilemma of independence: how to satisfy market imperatives without sacrificing its high reputation. TV B92 is the only television station with a significant share of foreign ownership, although the purpose of this investment, coming from an international foundation specialised in assisting media independence and plurality, is evidently not commercial. The Prague-based Media Development Loan Fund, linked to the Open Society Institute, acquired its 48.06 per cent shares in the joint stock company to help consolidate B92.

Other players

Several more channels have important technical potential, but their future in broadcasting is still not clear. Some grew out of large media outlets, such as TV Politika, and will have to redefine their status once cross-media ownership regulation has been enforced. Others existed only as loyal supporters of the previous regime. These include TV Košava, once owned by the daughter of Slobodan Milošević and subsequently sold to the newspaper *Blic*, which is owned by the Swiss company Ringier. There is also TV Palma, once a vocal promoter of nationalist policies and now trying to redefine its programme identity. Finally, there are hundreds of local broadcasters, owned or supported by the local municipalities, whose future depends on their ability to attract new owners and start as commercial broadcasters once the privatisation process has been completed.

Although there are many more regional and local channels, the dual system seems to bring out clear preferences on the part of audiences. Comparative data indicates that the major audience choices over the past few years have led to leading positions for TV Pink and RTS 1, together with the steady growth of other commercial channels, as compared to RTS 2 and 3K (the second and third channels of RTS). By the end of 2003, BK Telecom had a larger audience share than either of these two channels, as did TV B92 by the end of 2004 (see Table 9).

Table 9. Audience shares of the main television channels (2002–2005)

Ranked by 2005 audience share

Channel	Dec. 2002	Oct.-Nov. 2003	Nov.-Dec. 2004	Jan.-July. 2005
TV Pink	22.1	23.9	22.5	22.5
RTS 1	20.9	21.7	22.7	21.7
BK Telecom	8.3	10.4	13.2	11.4
TV B92	2.3	3.9	7.0	6.3
RTS 2	7.9	9.3	6.3	6.9
3K (RTS 3)	10.9	5.3	3.5	3.8
Other (mostly local and regional)	27.6	25.5	22.8	22.8
Total	100	100	100	100

Source: AGB Nielsen Media research¹⁰⁵

5.2 Services

The Broadcasting Act introduces, for the first time, general programme standards that are obligatory for all broadcasters.¹⁰⁶ These include the production of quality programmes, in terms of both technology and content, according to international and national standards, and the obligation to produce free, comprehensive and timely information, to broadcast important urgent announcements regarding threats to human life, health, security or property, and to contribute to raising citizens' overall culture and awareness.

As for content, the act explicitly does not allow programmes during the daytime “that may impair the physical, mental or moral development of children and youth”. If broadcast, such programmes should be clearly marked and only aired between 24.00 and 06.00. The same applies to pornography or content that gives undue prominence to violence or is likely to incite violence, drug abuse or other forms of criminal behaviour. Broadcasters are also not allowed to abuse “the naiveté of the audience” and must “contribute to raising the overall culture and awareness of the citizens and keep their programme content in accordance with regulations on public information, i.e. in accordance with regulations on the protection of cultural heritage”.¹⁰⁷ These rather vague propositions are the only public service obligations of the commercial broadcasters.

¹⁰⁵ AGB Nielsen Media Research, *Overview: January-July 2005*.

¹⁰⁶ Broadcasting Act, art. 68.

¹⁰⁷ Broadcasting Act, art. 68.

5.3 Commercial television ownership and cross-ownership

As a rule, the commercially most successful broadcasters are connected to a variety of media-related businesses, controlling radio stations, magazines, Internet providers, mobile operators and music companies. Unofficially, some own shares in the print media, but reliable data about this is impossible to obtain.

Several large media operations still exist within major State media or publishing companies. The State broadcaster, RTS, is still a conglomerate of various media-related businesses. Even after the Broadcasting Act sized it down to two terrestrial networks, the third channel, 3K, was not allowed to become separate, but was organisationally returned under the RTS structure. Its future transformation, and the establishment of the separate public service institution in the province of Vojvodina, will affect both the public service side and the commercial side of the broadcasting environment.

Two major publishing companies, Politika and Borba, still dominate the print market. The largest publisher, Politika, underwent privatisation in the mid-1990s and now includes 30 outlets, a radio and television channel, printing facilities and a distribution network. Privatised as a single company, it now comprises three: Politika AD, Politika Newspapers & Magazines, as a joint venture (with half the shares owned by Westdeutsche Allgemeine Zeitung (WAZ) of Essen, Germany), and RTV Politika as the broadcasting company. RTV Politika was formed in 1990 and has its own transmitter network covering most of the country's territory.¹⁰⁸

Borba is one of the huge State companies due to be privatised soon. It still includes newspapers, a publishing house and a distribution company. Its future privatisation is already fore-shadowed by different interests for *Večernje novosti*, the highest-selling daily newspaper, with complicated property rights.

Some of the newly emerging media outlets are also huge corporations. Pink International includes two radio stations, a magazine and a music company, TV Pink BIH, TV Pink Montenegro and Satellite Pink Plus. BK Telecom has strong ties with the telecommunications industry as a majority owner of the cell phone operator Mobtel, publishes several lifestyle magazines and owns a record company.¹⁰⁹ TV B92 is part of a company that has a radio station, a television channel, book publishing, a cultural centre and an Internet centre.¹¹⁰

¹⁰⁸ Basic Facts on Politika are available on the company website at <http://www.politika.co.yu> (accessed 4 August 2005).

¹⁰⁹ Ownership data is compiled from various sources, and only those outlets that the companies themselves acknowledge are included. BK has several times been rumoured to be seeking an interest in various newspapers, most recently the tabloid newspaper *Balkan* or the weekly news magazine *NIN*, but this has not been confirmed.

¹¹⁰ The detailed company structure is available at <http://www.b92.net/companyprofile/index.php> (accessed 4 August 2005).

The new regulatory framework introduced some ownership restrictions. General anti-monopoly regulation and foreign ownership restrictions are contained in the Public Information Law. Every form of monopoly in the field of public information is prohibited: “No one may enjoy the monopoly to establish or distribute a media outlet.” The provision also extends to protection of internal pluralism, stating that “no one may enjoy the monopoly to publish ideas, information and opinions in a media outlet”. In addition, media outlets may not be founded, directly or indirectly, by the State, a territorial autonomy, or by an institution or company that is prevalently State-owned or funded from public revenues.¹¹¹

The Broadcasting Act further limits foreign media ownership by requiring that the licence holder be registered or have a residence in the country. A foreign owner may have a share of a maximum 49 per cent in the overall founding capital of the medium, but may not possess shares in the public broadcasting service organisations.¹¹²

The act also regulates the concentration of media ownership in more detail. It declares concentration (i.e. prevalent influence on public opinion) prohibited in cases where a broadcaster with national coverage also does one of the following:

- has more than a five per cent share in the ownership of another broadcaster with the same type of licence;
- broadcasts more than one television and more than one radio programme in the same area;
- has more than a five per cent share in a company publishing a daily newspaper with a circulation of more than 30,000, and vice versa;
- has more than a five per cent share of a news agency, and vice versa;
- simultaneously publishes a daily newspaper with a circulation exceeding 30,000;

It also declares a concentration prohibited if a regional or local television station does one of the following:

- has a share exceeding 30 per cent in the founding capital of another local or regional broadcaster in the same area;
- is simultaneously publishing a local daily newspaper in the same or neighbouring area.¹¹³

The RBA cannot issue a licence if this would result in any of the prohibited forms of concentration. It is the applicant’s obligation to provide a statement that his or her licence would not violate these provisions, and it is the Agency’s duty to ask the

¹¹¹ Broadcasting Act, art. 7.

¹¹² Broadcasting Act, art. 41.

¹¹³ Broadcasting Act, art. 99.

broadcaster to bring its status into accordance with the required provisions within six months, if it occurs. The broadcaster must therefore notify the Agency prior to any ownership changes, and the Agency can revoke the licence if the broadcaster does not abide by the requirements.

However, these ownership restrictions, anti-concentration measures and transparency measures, all proposed in the Broadcasting Act, are still not being enforced or systematically monitored.

5.4 Funding

Advertising is the major source of income for the largest commercial broadcasters. The Broadcasting Act attempted to regulate the financial operations of commercial outlets. The act determines the maximum duration of advertisements, and provides restrictions on the content of television advertising. Advertising time is limited to 10 per cent of programming for public service, local and civic sector outlets, and cannot exceed six minutes per hour of programming. The limit for commercial broadcasters is 20 per cent of the daily broadcasts and 20 per cent per hour of broadcasting. All advertising has to be aired in blocks, separated by not less than 20 minutes, and placed in “natural breaks” during programmes.

The Broadcasting Act prohibits untrue, deceitful, covert or denigratory (offensive) advertisements and teleshopping, or those that could affect the sub-consciousness of viewers. News programmes, information, documentary and children’s programmes may not be interrupted by advertising if they are shorter than 30 minutes. Advertising is not allowed in religious programmes, and political organisations cannot advertise themselves outside election campaigns. Advertisements must always be clearly distinguishable and set apart from other programme products, while journalists, presenters and editors of news, documentary, cultural, educational and children’s programmes may not appear in them. As for content, the act completely forbids the advertising of tobacco, alcohol, and all forms of professional medical treatments, their results, health protection methods or medication.¹¹⁴

The Advertising Act is expected to provide full regulation of advertising. The draft, recently prepared for Parliament, is provoking debate that has exposed differences between the advertising industry and the professional media community. According to advertisers’ complaints, Serbia is preparing the toughest regulation in the field, especially of tobacco and alcohol. Their estimates are that many media will not be able to survive with such limited sources of income if advertising remains so heavily regulated.

No reliable figures about the media market are available. The financial operations of the major broadcasters are non-transparent and can only be estimated indirectly, using the quantity of advertising, their audience and market shares. The most dependable

¹¹⁴ Broadcasting Act, art. 104.

calculations draw on the business strategies of international companies interested in the Serbian market. After these companies began to move into the region, from 2000, they wanted to reach the largest possible audiences. These could only be delivered by the all-entertainment channels that were thus able to benefit in terms of advertising revenue from the privileged positions that they had established in the 1990s.

The yearly income of the most successful television station, Pink International, increased slowly from 1997 to 2000, to approximately €4 million. Since 2000, the station's income has been expanding rapidly and, according to advertising market research, its estimated income in 2004 was in the range of €35.¹¹⁵ The steep growth curve indicates that the real beneficiary of the democratic changes is the leading entertainment broadcaster, which established its leading position during, and thanks to, the old regime, but seems to have only really prospered after its demise.

Meanwhile, the smaller outlets, and those with a strong public service vocation, are unable to compete, and find it difficult to maintain the quality of their programming. As in the case of TV B92, they still rely to an extent on international donations to produce high-quality information, documentary and investigative programmes.

5.5 Programme framework

5.5.1 Programmes

The Broadcasting Act imposes basic programme standard requirements upon all broadcasters. However, commercial broadcasters are not required to fulfil any particular quotas or to structure their output accordingly. Their programme obligations should in future be specified by their licence contract. As all of them operate without proper licences, there are no standards to which they can be held responsible.

As of recently, even without any requirement to do so, some channels have slowly been adjusting their programme structures according to their desired identity, preferred audience profiles and future market position. Nevertheless, this new orientation is only a substitute for genuine standards that must be defined by law and contained in licence contracts.

Commercial broadcasters in Serbia presently offer differing programmes, with recognisable identities. At one end of the range is TV Pink, the broadcasts of which introduced news shows only after 2000, and which – with fewer than ten of them – is still dominated by light entertainment. Somewhere towards the middle is BK Telecom, which styles itself as a “family channel”. BK Telecom complements its strong emphasis on information and news production with conventional types of entertainment shows.

¹¹⁵ AGB Nielsen Media Research, *Media scene in Serbia 2004*.

At the other end of the spectrum is TV B92, with its strong emphasis on information and investigative journalism, and much less orientation towards light entertainment. During the past five years, this was the only channel whose special investigative programmes, both radio and television, were the channel's trademark. It is also the only broadcaster that consistently keeps the debate over the recent past – the years of ethnic conflicts, wars and authoritarian rule – on the agenda. In this respect, TV B92 approximates being a public service, a role that Radio B92 played throughout the 1990s, when the State broadcaster mostly acted as a regime propaganda instrument.

5.5.2 Quotas

Except for the obligation to have more than 50 per cent of their programming in the Serbian language and more than half of it self-produced, the Broadcasting Act does not set any specific obligations on diversity of content.

The large commercial channels do not have any programmes in minority languages. They have only recently started producing drama, documentary and other less commercial genres. Minorities' media mostly exist in areas with ethnically mixed populations. Many of them grew out of local branches of the State broadcaster and are facing serious funding problems. With the recent legal changes, ethnic minority media are now associated with National Minority Councils, autonomous bodies representing the numerous ethnic minorities in Serbia. Founding rights, and the ownership titles following from them, for the local minority media have already been transferred to the National Councils, and the effects of this policy decision are yet to be seen.

International standards are mostly not observed in domestic media, and in the absence of an active broadcasting regulator they are not even acknowledged. TV Pink, for instance, used to emphasise the fact that,

80 per cent of all films and serials broadcast by the Pink network are produced by Twentieth-Century Fox, Warner Brothers, Paramount, Dream Works and Universal Studios. The remaining airtime is divided between local and Latin American soap operas. No European film or television serial is aired on the Pink network.¹¹⁶

5.6 Editorial standards

All commercial channels value highly their editorial independence, even if news and documentary production is only a minor part of their output. However, none has ever presented any editorial guidelines or has made any such documents publicly accessible.

¹¹⁶ Pink International, Company Information for the year 2003, p. 11.

TV B92 is so far the only large private broadcaster that repeatedly connects its programming with editorial independence and professional quality.¹¹⁷ Along with many joint initiatives to promote professionalism, it introduced its own Code of Conduct (*ANEM Codex*) and contributed to or initiated many political activities in defence of media freedom, demanding media regulation or protection for journalists.¹¹⁸

TV B92's emphasis on serious journalism and investigative reporting significantly differs from the quite often very modest ambition in this respect of the two other main commercial channels.

When BK Telecom credits itself as being an educational channel, which it understands to encompass,

[...] everything from our manner of verbal expression, the way in which we conduct interviews, how we visually tell the story, to the manner with which we conduct ourselves. On the territory of ex-Yugoslavia, BKTv is the first television company to introduce the idea of television that educates, thus raising standards in broadcasting.¹¹⁹

Similarly, TV Pink sees "editorial independence, accuracy and respect for privacy" as its distinguishing features, which in turn place its programmes at "the heart of the cultural, entertainment, social, intellectual and political life of the community".¹²⁰

6. EUROPEAN REGULATION

The State Union of Serbia and Montenegro is at the moment at the initial stage of the EU integration process. The country became a member of the Council of Europe in 2003, ending a long period of international isolation.

¹¹⁷ Some of B92's major awards include the following: Peace Award from Danish peace movements, 1993; Peace Plume from Flemish peace organisations, 1993; Radio Station des Jahres, from Medienhilfe Internationale (Germany), 1996; Free Media Pioneer, from the International Press Institute and Freedom Forum, 1998; Solidarity Award from AMARC, the World Association of Local Community Broadcasters, 1998; Free Your Mind award from MTV Europe; Robert Schumann Medal by the Group of the European People's Party and European Democrats in the European Parliament.

¹¹⁸ Information from the ANEM website, available at http://www.anem.org.yu/kodeks/index_1.htm (accessed 22 August 2005).

¹¹⁹ Quoted from web site information available at: <http://www.bktv.com/index.php> (accessed 15 January 2005).

¹²⁰ Description quoted information on TV Pink's website, available at <http://www.rtvpink.com/pink/kompanija-index.php> (accessed 15 January 2005)

In April 2005, the country received a positive report on its readiness to start negotiating a Stabilisation and Association Agreement with the EU.¹²¹ Negotiations are scheduled to start in autumn 2005. However, the report indicates, in the section on television, that the country should take steps to promote the European audiovisual industry, encourage co-production in the fields of cinema and television, and gradually align its policies and legislation with those of the EU. This particularly applies to matters relating to cross-border broadcasting and the acquisition of intellectual property rights for programmes and broadcasters by satellite or cable. The report notes that the ratification of the Council of Europe's Convention on Transfrontier Television (ECTT) is already under preparation in Belgrade.¹²² However, it also states that internal media legislation in Serbia remains problematic.

It is clear in any international review of the situation in Serbia that there is still important regulatory work to be done, as well as structural changes to be made, in the media domain. In its most recent periodic report, the Council of Europe emphasised several problems relating to the media: the functioning and credibility of the RBA Council, the implementation of the Law on Free Access to Information of Public Importance, and the alarming number of lawsuits against journalists.¹²³

The Council of Europe has assisted in many legal activities, such as advising on the drafting of media legislation in Serbia and helping to introduce European standards into recently adopted laws. However, even when this assistance significantly contributed to increasing the quality of legal texts, it was mostly civil society and media organisations that pressed for the acceptance and implementation of suggested amendments. Compared to other countries in the region, media improvement is slower, and reflects the lack of political consensus over media transformation. The major issue is still the implementation of laws, which means that even when adopted, new regulation is not always effective.

As a non-member of the European Union, Serbia still does not generally regard European practices as obligatory. It has therefore not yet ratified the ECTT. Indeed, there is little awareness about future obligations for the media that will be incurred when Serbia and Montenegro introduce the TWF Directive and other European media

¹²¹ European Commission, *Report On the Preparedness of Serbia and Montenegro to Negotiate a Stabilisation and Association Agreement with the European Union*, Brussels, SEC (2005) 478 final, available at http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0476en01.pdf (accessed 4 August 2005).

¹²² Council of Europe, European Convention on Transfrontier Television, 5 May 1989, amended according to the provisions of the Protocol (E.T.S. No. 141) of the Council of Europe of 9 September 1998, which entered into force on 1 March 2002, available at <http://conventions.coe.int/treaty/en/Treaties/Html/132.htm> (accessed 30 June 2005), (hereafter, European Convention on Transfrontier Television).

¹²³ Council of Europe, Information Document, SC/Inf/ 233/2005.

and telecommunications regulation as part of the country's preparations for EU membership.¹²⁴

7. THE IMPACT OF NEW TECHNOLOGIES AND SERVICES

The Internet is a rapidly growing industry. The number of users in Serbia has doubled since 2000, reaching 11 per cent of the population in 2004, but is still among the lowest in Europe. The number of cable and satellite users is estimated at 400,000. Compared to other technologies, only mobile telephone use has achieved significantly faster penetration, and by all standards is the most vital and best-developed sector of new technologies. There are three million mobile telephone users, which is over 50 per cent more than the terrestrial network users.

According to the law, the Telecommunications Agency should have assumed its regulatory duties as of 2003. However, as the Agency was not established until May 2005, the Ministry of Capital Investment performed most of these functions in the meantime. There is no strategy for digitalisation, and nor is there any date or policy for switchover, as the Strategy on Telecommunications Development is still not finalised.

7.1 New media platforms

Although provided for in the Telecommunications Law of 2003, the Telecommunications Agency was only established in May 2005, after a two-year delay. As yet, there is no strategy for digitalisation. No date has been set for the general switchover from analogue signal to digital. Without an active Telecommunications Authority, it is difficult to perceive how Serbia would liberalise the telecommunications market in an orderly manner.

Since 1996, when the Internet was introduced in Serbia, the number of users has grown by an average annual rate of 15 per cent. Around 5 per cent of the population were Internet users by the end of 2000. This number reached 640,000 (or around 7 per cent of the population) during 2002, and increased to 840,000 in 2004.¹²⁵ Investment in Internet technologies is still among the lowest in Europe. Although

¹²⁴ "Television without Frontiers Directive" (hereafter, TWF Directive): European Council Directive of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, 89/552/EEC, OJ L 298 of 17 October 1989, as amended by European Parliament Directive of June 1997, 97/36/EC, OJ L 202 60 of 30 July 1997, consolidated text available on the European Commission website at http://europa.eu.int/eur-lex/en/consleg/pdf/1989/en_1989L0552_do_001.pdf (accessed 15 March 2005).

¹²⁵ Gallo EFC S.p.A., *Investing in the Internet Sector and IT Technologies in Serbia: Challenges and Possibilities*, Belgrade, 2004, p. 24.

investment per capita increased to almost €18 million in 2004, up from €12 million in the previous year, this is still more than ten times less than in Slovenia, and less than in any other former Yugoslavian republic.¹²⁶ There are around 40 Internet service providers in Serbia, indicating a turbulent growth even before the industry has been properly regulated. The most popular media website in Serbia is that of B92, with more than 500,000 hits every day according to data published on its website.¹²⁷ It is funded as a commercial operation. Other media outlets lag behind in utilising and developing their Internet services.

Compared to other technologies, only mobile telephone use has achieved significantly faster penetration, and by all standards is the most vital and best-developed sector of new technologies. There are three million mobile telephone users, or over 50 per cent more than there are terrestrial network users.¹²⁸ However, even this prosperous segment of the telecommunications sector is facing serious challenges. According to the legal deadline set by the Telecommunications Act, the mobile telephone industry had to be de-monopolised by June 2005 and both market and services liberalised, but this has not yet happened. The State company PTT enjoys a kind of monopoly, having shares in two providers – 80 per cent ownership in Telecom and 49 per cent in Mobtel – which means that it is basically competing with itself. The State claims a majority share in Mobtel, although the BK group, the private co-owner, continues to benefit from its alleged position of majority owner. As BK Telecom is part of the BK group, direct connections between their joint telecommunications and broadcasting interests are continuously the focus of public concern in Serbia.

Cable and satellite users are hard to estimate, as both activities grew prior to any regulation. The number of users is now estimated at 400,000. Due to the absence of regulation, providers operate without licences and with many differences in technical standards. However, due to the fast-growing number of users, operators expect future legalisation. Their combined level of investment to date is approximately €35 million, compared to €520 million in mobile telephone use.¹²⁹

The Ministry of Capital Investment has prepared a proposal for a telecommunications development strategy, which has been debated since summer 2004. However, the Government's avoidance of electing the Telecommunications Agency caused a significant loss of time in formulating consistent policy and relevant public debate. Ownership issues in the telecommunications sector seem to prevent important

¹²⁶ *Magazine Mikro*, No. 733, 20 January 2005, p. 7.

¹²⁷ Information from the B92 website, available at http://www.b92.net/o_nama/index.html (accessed 22 August 2005).

¹²⁸ OSI roundtable debate, discussion about the Draft Strategy on Telecommunications Development. The draft Strategy is available in Serbian at <http://www.bos.org.yu/cepit/evolucija/html/8/strategija.htm> (accessed 4 August 2005), (hereafter, Draft Strategy on Telecommunications Development).

¹²⁹ Draft Strategy on Telecommunications Development.

development decisions. Although most licences and arrangements in this field still date back to the years of Milošević's regime, the present authorities still seem to be inclined to solve them through direct deals involving political criteria, rather than observing the public interest.

8. CONCLUSIONS

Since democracy was established in Serbia in 2000–2001, the progress of reform in broadcasting, media policy and regulation has been far from satisfactory. Reforms are slow and piecemeal, rather than conceptually worked out and coherent. The essential legal framework is still incomplete, laws that have been adopted are not being implemented, and new institutions have not been established. Some political figures who played a role at the time of the Milošević regime have again attained prominent positions. The fundamental transformation of the broadcasting sector cannot be enforced without the establishment of new independent regulators for broadcasting and telecommunications. Until this has been provided, there can be no vision for the future.

Two subsequent rounds of amendments to the Broadcasting Act – in 2004 and 2005, even before the act had been implemented – indicate political reluctance to set up independent regulatory structures. The public authorities have so far avoided even initiating a process of revision of the questionable and irregular licensing decisions by the Milošević regime. It has instead tried to preserve influence over the media by prolonging the dubious legal and market conditions that it inherited.

The Government also continues to block the transformation of major State-owned media. Rather than turning the State broadcaster, RTS, into a public service broadcaster, it envisages RTS as Serbia's "national television". In practice, this means State television by another name. This reveals a misunderstanding – if not a rejection – of the very idea of public service broadcasting. RTS preserved large audiences after 2000 and, unlike many public service broadcasters in other transition countries, competes closely with the leading commercial channel in terms of audience share. It also enjoys strong political support. Only when its budget funding started to decrease in 2005 did the public become aware of the amount of its expenditure, as there are no public instruments to ensure its financial accountability.

The financial consolidation of RTS is one of the major issues that cannot be postponed indefinitely. Although the Broadcasting Act required the re-introduction of the licence fee, two years after its adoption this has not yet happened. In summer 2005, the public vehemently protested when the Government obtained Parliament's approval to reintroduce the licence fee for the unreformed State broadcaster, RTS. At the same time, the Government was entitled to set up a special fund to finance the reform of RTS into a public service broadcaster. After years of not paying for television, and with the strong presence of commercial channels, the public is not likely to accept the

licence fee again without first seeing value for money, in the form of the establishment of a genuine public service broadcaster. The commercial stations are also lobbying against granting RTS the possibility of increasing its advertising revenues.

Another highly problematic issue is the delay in privatising the huge State-owned local and regional media sector. Many local and regional radio and television stations owned by municipalities are far from their expected transformation into commercial outlets, which should have been facilitated by the Ministry of Culture and Media and the Privatisation Agency. This delay is caused primarily by the Government's lack of interest in the process, and even its indifference to the future of the local media outlets. There is no coordination between the relevant ministries in charge of privatisation, finances and culture in this complicated process. The Ministry has only issued a decree that has been criticised for its unclear and insufficient content, and which is basically non-applicable. In response to public demands, it once again responded with a postponement, extending the deadline for another year for print media. However, amendments to the Broadcasting Act subsequently extended this deadline to the end of 2008 for broadcast media. Some critics consider that this postponement strategy is in fact a way of preserving State ownership over local media until the next round of local elections. There have been many indications in the past years that the local authorities still exert a strong influence upon the local media.

After initial insecurity following the 2000 change of power, the large private media companies that emerged during the 1990s are consolidating their political and market position. The sources of their huge wealth – which in turn generates influence – have never been disclosed. This also applies to media-related businesses, particularly mobile telephone use. The new democratic governments did not meet public expectations, and opted for political arrangements with the major media outlets, rather than investigating or opening up a public debate about their obscure past and usefulness to the Milošević regime. Even their obligations to pay taxes for the exceptional wealth accumulated during the years of authoritarian rule in Serbia, as envisaged by the law on extra-profits (The Law on One-time Taxation on Extra-profits or Extra Property Acquired under Special Conditions), no longer appears to be an issue for the authorities. The major media companies that emerged throughout the 1990s are now using their market privileges to establish firm holds for the future.

The independent media – which developed as part of a civil society struggling against authoritarian rule and depended to a great extent on international support to oppose repression – are adjusting to the new conditions with much difficulty.

Commercial television channels have not yet been licensed, and the first fair allocation of licences and frequency regulation is not yet under way. Electronic media in Serbia have not yet been exposed to international competition or application of European standards. Foreign investments have not yet entered the broadcasting sector.

Public policy towards Internet-based technologies and other new media platforms is completely lacking. Even the prospering telecommunications sector is being held back

by unresolved ownership issues. The State is involved in an international court case over ownership with a private company, BK. The Government has delayed the appointment of the Telecommunications Agency, which is essential for the implementation of Telecommunications Law (2003) and the licensing of broadcasters.

The Government has not yet publicly accepted responsibility for the absence of reforms and the flawed implementation of the laws. The habit of many public officials to repeat that “the laws are good but not implemented” does not strengthen the case for the rule of law, but rather weakens it, as officials seem to support the notion that law enforcement is a voluntary matter. Furthermore, by supporting dubious “quick fixes” to overcome legal lacunae, the authorities themselves become a major source of disrespect for the rule of law.

Paradoxically, the most visible media improvement so far is one made in terms of content quality. Public communication is slowly recovering from the years of hate speech and militant and aggressive media. In the print sector, the legacy of those years is still visible in the highly aggressive marketing and editorial strategies of newly emerging tabloids. The broadcast sector is normalising, and broadcasters are positioning themselves for the licensing process, which cannot be postponed forever. The 2003 election showed that broadcasters realise that their own commercial interest will be better served in the long run by favouring editorial neutrality over clear political bias. However, it also showed that without firm licensing requirements, they could always opt to serve the political agenda of their owners. Without a proper legal framework and new regulatory structures, the media can hardly be expected to transform themselves into socially responsible and commercially viable companies.

9. RECOMMENDATIONS

9.1 Media policy

Legislation

1. Parliament and the Government should undertake a review and reform of national media legislation to ensure its full compliance with the EU *Acquis communautaire*, in line with the preparation of Serbia and Montenegro to become EU member States. They should refrain from legal or policy changes that undermine the already achieved democratic gains in the sphere of public communication.
2. Parliament and the Government should, as a priority, amend the Law on Public Information, the new draft Criminal Code and other relevant legislation, to delete all provisions contravening EU legal standards, in particular those provisions retaining libel as a criminal offence.

3. Parliament and the Government should, without further delay, ensure the full implementation of existing media laws and the establishment of the institutions foreseen by these laws. New institutions – such as the Telecommunications Agency, the Broadcasting Agency and the Ombudsman for Public Information – should receive all necessary support from the public authorities to enable them to fulfil their duties.
4. The Ministry of Culture and Media, in cooperation with other relevant institutions, should provide clear bylaws for the forthcoming privatisation process of municipal media. An office should be established within the Privatisation Agency to assist municipal media to prepare for the privatisation. This office should also facilitate the privatisation of large media owned by the federal State, such as Borba.
5. The Ministry of Culture and Media should also investigate if, and, if so, what, anti-concentration measures are necessary to stimulate media pluralism and introduce necessary transparency measures into ownership regulation.

Broadcasting policy

6. The Council of the Broadcasting Agency of the Republic of Serbia (RBA) should organise public hearings about the future of broadcasting in Serbia. Particular attention should be devoted to formulating obligations for private broadcasters, who, until now, have never been required to act in a socially responsible manner. The main purpose of the hearings would be to establish common ground for a consensual national media policy.
7. The Government should, in order to foster the development of new media platforms in Serbia, establish an inter-ministerial working group, also involving non-governmental experts from academia, civil society and the media industry. An urgent task of this working group would be to formulate a plan for the digitalisation of broadcasting in the country.

International support

8. The Organisation for Security and Cooperation in Europe (OSCE), the Council of Europe (CoE), the European Union (EU) and other international governmental and non-governmental institutions should continue monitoring and assisting media reforms in Serbia, particularly with respect to public service broadcasting. They should condition the further integration of Serbia into Euro-Atlantic structures with the speeding up of the media reform process.
9. International organisations supporting media development should continue financial, technical and professional support, including financial assistance to news media in Serbia. Support should be focused towards those media outlets that endorse social responsibility, for instance by resisting cultural and political

populism and offering high-quality programming, including investigative journalism and reporting on politically and socially contentious issues.

9.2 The regulatory bodies (the RBA and the Telecommunications Agency)

Cooperation

10. The Council of the Broadcasting Agency of the Republic of Serbia (RBA) should promptly prepare a coherent strategy for the development of the broadcasting sector. This strategy should pay particular attention to the issue of the technological convergence of various media platforms, as well as the liberalisation of media industries.
11. The Council of the Broadcasting Agency of the Republic of Serbia (RBA) should initiate cooperation with the Telecommunications Agency without delay, and should immediately start preparing the first public contest for broadcast licences.

9.3 The public service broadcaster (RTS)

12. The Council of the Broadcasting Agency of the Republic of Serbia (RBA) should, as a priority, launch the transformation of Radio Television Serbia (RTS), by appointing Governing Boards of future public service broadcasters of Serbia and Vojvodina. One of the most important parts of this transformation should be establishing the autonomous public service broadcaster for Vojvodina, according to the law, and finding a solution for the future status of the third channel of RTS.

Funding

13. Radio Television Serbia (RTS) should, as soon as it reintroduces a licence fee, simultaneously introduce measures to ensure financial and editorial independence of the future public service broadcaster in Serbia. The transitional fund, set up to help the RTS transformation to public service broadcasting, should be under transparent public control, and there should be regular public reporting of licence fee expenditures.

9.4 Industrial relations and ethical issues

Employees' rights

14. Trade unions representing the interests of media professionals should formulate a platform for the protection of employees' rights in the media industry. Based on this document, trade unions should start collective

bargaining with media owners to ensure social standards and other employees' rights.

Professional ethics

15. Journalists' associations should cooperate with trade unions on the issue of employees' rights. At the same time, they should enter into negotiations with media owners about acknowledged standards of internal press freedom, obligatory codes of ethics, and other self-regulatory instruments to protect the editorial integrity of journalists.
16. Associations of media professionals, trade unions, civil society organisations, academia and all other interested parties should establish a "media commission" and entrust it with the task of providing a report to Parliament about the role of particular media outlets and journalists during the time of authoritarian rule and warmongering in Serbia in the 1990s. The findings of this report should include recommendations on how to prevent the recurrence of such degradation in the future.
17. Media organisations, trade unions and civil society organisations should insist that the public authorities investigate, and bring to justice the perpetrators of, all cases of violence against media professionals since the 1990s. In the first place, the murderers of two journalists – Slavko Ćuruvija (1999) and Milan Pantić (2002) – and those who ordered these killings, should be uncovered and punished.

ANNEX 1. List of legislation cited in the report

Main broadcasting laws

Broadcasting Act, *Official Gazette of the Republic of Serbia*, No. 42/02, 18 July 2002.

Available in Serbian at

http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=45&t=Z (accessed 4 August 2005).

Broadcasting Act, amendment of 24 August 2004, *Official Gazette of the Republic of Serbia*, No. 97/04.

Available in Serbian at

http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=163&t=Z (accessed 4 August 2005).

Telecommunications Law, *Official Gazette of the Republic of Serbia*, No. 44/03, 24 April 2003.

Available in Serbian at

http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=90&t=Z (accessed 4 August 2005).

Other laws

Law on Free Access to Information of Public Importance, *Official Gazette of the Republic of Serbia*, No. 120/04, 21 November 2004.

Available in Serbian at

http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=171&t=Z (accessed 4 August 2005).

Public Information Law, *Official Gazette of the Republic of Serbia*, No. 43/03, 23 April 2003.

Available in Serbian at

http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=84&t=Z (accessed 4 August 2005).

Public Information Law, amendment of 15 July 2005, *Official Gazette of the Republic of Serbia*, No. 61/05.

Available in Serbian at

http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=236&t=Z (accessed 4 August 2005).

Law on Public Information, *Official Gazette of the Republic of Serbia*, No. 36/98.

Law on Public Enterprises and Related Areas of Public Interest, *Official Gazette of the Republic of Serbia*, No. 25/2000.

The Law on the Budget of the Republic of Serbia for the Year 2004, *Official Gazette of the Republic of Serbia*, No. 33/04.

Available in Serbian at

http://www.parlament.sr.gov.yu/content/cir/akta/akta_detalji.asp?Id=127&t=Z (accessed 4 August 2005).

ANNEX 2. Bibliography

In English

- AGB Nielsen Media Research, *Media scene in Serbia 2004*, presentation at the Media Fair in Novi Sad, 3 March 2005 (Belgrade: AGB Nielsen, 2005)
- International Financial Corporation, *Investing in the Internet Sector and Development of IT Technologies in Serbia*, Public Report (Belgrade: IFC, 2003)
- Pink International, *Company Information for the Year 2003*, (company promotional publication in English).
- Plavšić, Prvoslav, Miroljub Radojković and Rade Veljanovski, *Toward Democratic Broadcasting* (Belgrade: Soros Yugoslavia Foundation, 1993)
- Popov, Nebojša (ed.), *Serbia's Road to War* (Budapest: CEU Press, 1996)
- European Commission, *Serbia and Montenegro Stabilisation and Association Report 2004*, Commission staff working paper, COM(2004) 206 final (Brussels: EU, 2004).
- Milivojević, Snjezana and Srećko Mihajlović, *Local Media and Local Community Development* (Belgrade: Friedrich Ebert Stf., 2004)
- Media Privatization in Serbia*, roundtable debate (Belgrade: IREX, 2004)
- Snježna Milivojević, *Tabloidization of the Daily Press in Serbia* (Belgrade: IREX, 2004)

Other languages

- Djorić, Slobodan, *Bela knjiga o radiodifuziji 1990–2000, (White Book of Broadcasting 1990–2000)* (Belgrade: Spektar, 2002)
- Helsinki Committee for Human Rights in Serbia, *Mediji kao deo anti-evropskog fronta: Stampa, nepromenjena matrica, (Media as part of the anti-European front: The press, unchanged pattern)* (Belgrade: Helsinki Committee for Human Rights in Serbia, 2005)
- Marović, Miodrag, *Politika i Politika, (Politika and Politics)*, (Belgrade: Helsinki Committee for Human Rights in Serbia, 2002)
- Milivojević, Snjezana and Jovanka Matic, *Ekranizacija izbora, (Televised Elections)* (Belgrade: Vreme knjige, 1993)