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Sandra Hrvatin, Marko Milosavljevic

Media Policy in Slovenia in the 1990s

Regulation, privatization, concentration and commercialization of the media

During the 1990s the Slovene media were significantly affected by political changes. The events that most influenced the media world of the nineties were the introduction of the new media law (arguments and discussions about the media law in Slovenia have again become topical ten years later), the privatization of the media, liberalization of the print media market and superficial regulation of the broadcasting market, media monopolization and commercialization. These events are the subject of the analysis in this essay. The Slovene media market is small, so relatively modest financial resources suffice to establish control over it (especially in comparison with the sums involved in the takeovers and acquisitions in other European countries). Before the process of media privatization got underway, the Slovene state expected the invasion of large European and American corporations, similar to what has happened in some other countries in transition. One decade later it is possible to conclude instead that a small number of local owners with stakes in numerous affiliated companies control the major part of the Slovene media market. The concentration is still in progress, while cross−ownership ties remain unchanged. It is obvious that the state, or rather its supervising institutions, do not have any mechanism (and no interest) to introduce order into this field. Moreover, the legislative body has overlooked another important fact, namely that privatization has nothing to do with the ethics of the media operation, and even less so with the accountability of the media to the public. The democratic and plural media, which were expected to be secured through the Mass Media Act of 1994, proved to have a high price. In democratic societies the prevention of media monopolization is the responsibility of the state. However, in a system which is subject to voluntary steps by the state, market and new owners, that is to say, in which there are no legal and financial conditions for plurality of the media, it is not possible to talk of media freedom. The story of introducing firstly the Mass Media Act that came into force in 1994 and then the Mass Media Act of 2001 brings to light the state's attitude towards the media deregulation. In the beginning of the 1990s, the basic dilemmas revolved around the questions of whether a law on the media was needed at all, and what kind of law it should be. Once in force, the law proved to be deficient. Insufficient supervision of the implementation of the deficient law thus resulted in a non−transparent concentration of media ownership and numerous violations of the law for which, unfortunately, there were no sanctions. The first changes to the Mass Media Act of 1994 were proposed in 1997 followed by four years of debate before the Mass Media Act, which replaced former law, came into force. It treats certain areas (for example, the interests of the state) in minute detail, while others (for example the interests of citizens) are dealt with only loosely. On the other hand, the fundamental question posed over the past decade remains unchanged and, more importantly, unanswered. This question is: What kind of the media policy does the state actually support?

The Decade Spent in Want of the Media Policy

The last decade of the twentieth century in Slovenia was marked by endless debates about the media and attempts to regulate the media sector. The first signs of deregulation, or rather, the withdrawal of the state from the media scene, could be observed towards the end of the 1980s, when the state discontinued its aid to most of the newspapers (in addition to direct support, the state aid included discount prices for paper and artificial maintenance of a uniform price of the dailies). As a result, some newspapers folded and others adapted to the demands of the market. Formerly 'institutions of special national importance', the media now became economic subjects that had to earn their income by competing in the market.

The CEE countries in transition had no strategy and still less political will to define the media policy for the future. The question of media democratization was reduced to the question of how to change (democratize) the ownership of the media. As for the print media segment, the freedom of public expression was simply equated with the freedom of ownership. The opinion that prevailed was that the privatization of the media (the presence of known owners in the sphere formerly devoid of owners) would be a sufficient safeguard against interference by the state. When justifying the need to prevent any form of state interference, the advocates of complete deregulation primarily pointed out troublesome experiences from the previous system. If we ignore for the moment the politically motivated funds intended for the pluralization of the media (there was an attempt to establish such a fund in Slovenia put forward in the proposal for a mass media law in July 2000), we can conclude that most of the CEE countries have failed to take care of the media so far.

Another conviction that prevailed in Slovenia was that the print media should remain in the hands of Slovene owners (in order to protect 'national interests') or, to put it differently, that it was absolutely necessary to prevent the sell−off of the media to foreign owners (in contrast to what has happened in, say, Hungary). The 'fear' that foreign owners would impose their own (above all political) will led to legal restrictions on the proportion of ownership shares in media companies. In reality what happened, under the pretext of warding off the danger of takeovers by foreigners, was that media became concentrated in the hands of a small number of local owners, sometimes with recognizable political implications. The basic dilemma accompanying the privatization of the media was whether the process should be subject to the law governing the transformation of the ownership of companies (which came into force in 1992) or regulated by a special law. A group of MPs who participated in drawing up the law on the transformation of ownership supported the view that the media (with the exception of the public institution *RTV Slovenija*) should be treated the same as any other company as regards the privatization rules. This generated another question, namely whether capital investments by the state should be taken into account in the privatization process, the same as when privatizing other companies. As a matter of fact, the media in Slovenia were socially−owned, but social ownership in effect amounted to state ownership. Under the privatization law, the socially−owned capital (which is subject to privatization) is defined as the difference between company's total assets and its liabilities which include claims for the return of property by former owners. This meant that there existed a theoretical possibility that the state itself could regain its majority ownership of media companies, or in other words, that the media could become nationalized.

The (political) decision to privatize the media by means of employee (internal) buyouts was adopted in order to ensure that the media would remain in the hands of employees which in turn would enable political independence. In line with this decision, Article 39 of the Mass Media Act of 1994, which prescribed a dispersed ownership (by preventing a take−over by one owner only), represented a kind of a safety valve that ruled out the possibility of the nationalization of the media. Privatization by internal buyout furthermore determined the relationships between the management and employees, that is, between the management and the editor−in−chief. Article 30 of the Mass

Media Act thus specified that the editor−in−chief of a public medium was appointed and discharged by the newspaper publisher or broadcast company subject to the prior opinion of the editorial board or representatives of the editorial board. Similarly, under Article 34, any essential changes in the editorial policy were subject to the opinion of the editorial board or their representatives. These articles were intended to prevent future owners from influencing the editorial policy of the media.

In contrast to the complete deregulation of the print media field, most ex−socialist countries attempted to retain control over the broadcast media. The question of the transformation of state television into a public service television was related to the question of how to secure the influence of the public and prevent political parties from assuming indirect control over the public radio and television network. Yet, on the other hand, the frequency spectrum was dissipated quite recklessly. As for the debate regarding a new law on the mass media, which was to apply to the broadcast media as well, the prevailing view was that the smallness of the Slovene market made it unsuitable for national commercial networks. A new media law, so the argument ran, should support the setting up of local radio and television stations so that a broadcasting license would, as a rule, be granted for a single transmitter site only. "The one−frequency principle" was included in the first draft of the Mass Media Act and both the national authority for telecommunications and inter−sectoral working group, which dealt with the applications for frequency allocations at the time, observed this rule.

However, in 1993 (one year before the Mass Media Act came into force), under the pretext of democratization and public pressure, frequencies began to be allocated to commercial radio and television stations. Political pressures from various political parties contributed to uncontrolled frequency allocation. The former Slovene Christian Democratic Party exploited its control over the state authorities responsible for allocating frequencies and set up the first national networks − radio station Ognjisce and television station TV3. Both were expected to obtain the status of non−commercial networks which would have instituted them as additional public services in the country. However, with the adoption of the Mass Media Act in 1994, the status of a non−commercial public program was granted to the public institution RTV Slovenija only (apart from it only local programs could obtain the same status), so both Radio Ognjisce and TV3 became commercial stations financed exclusively from advertising.

The story of introducing firstly the Mass Media Act that came into force in 1994 and then the Mass Media Act of 2001 brings to light the state's attitude towards the media deregulation. In the beginning of the 1990s, the basic dilemmas revolved around the questions of whether a law on the media was needed at all, and what kind of law it should be. Once in force, the law proved to be deficient. The ownership restriction rules were not observed, and the law could not prevent the 'sale' (and re−sale) of broadcast channels either. Undoubtedly its biggest flaw was the failure to prescribe legal sanctions for cases of violation. Insufficient supervision of the implementation of the deficient law thus resulted in a non−transparent concentration of media ownership and numerous violations of the law for which, unfortunately, there were no sanctions. The first changes to the Mass Media Act of 1994 were proposed in 1997 followed by four years of debate before the Mass Media Act, which replaced former law, came into force. It treats certain areas (for example, the interests of the state) in minute detail, while others (for example the interests of citizens) are dealt with only loosely. In addition the law tries to govern the print and broadcast media all at once. On the other hand, the fundamental question posed over the past decade remains unchanged and, more importantly, unanswered. This question is: What kind of the media policy does the state actually support?

Obviously, the media in the 1990s were significantly affected by political changes. The events that most influenced the media world of the nineties, namely the introduction of the new media law (arguments and discussions about the media law in Slovenia have again become topical ten years later), the privatization of the media, liberalization of the print media market and superficial regulation of the broadcasting market, media monopolization and commercialization, are the subject of our analysis in this essay.

Media liberalization in Slovenia

The changes in the media system that occurred during the transition period were of an exceptionally political or rather politicized nature. The question of how to democratize the media was at the same time the question of how to democratize society in general (Splichal, Basic Hrvatin, 1998). In a traditional liberal model, the main role of the mass media is to scrutinize the use of government power. The fulfillment of this role is believed to determine the forms of ownership and organization of the media. Since the relevant institutions at the time held that it was necessary to secure a complete independence of the media particularly from the state, and since it was believed that complete independence could be guaranteed only by private ownership, leaving media to market forces was seen as a pre−requisite for their democratization. This approach is limiting in that it sees the state as the only player potentially threatening the independence of the media, and the market as the only mechanism that can ensure their independence. The media privatization process showed that changes in the media system involved a characteristic joining of the political (party) and economic powers. Indeed the state did give up the media throne, but simultaneously 'soft' forms of control over the media emerged.

The paradox of the deregulation of the communications sector in post−communist countries arises from disregarding the presence of two levels of regulation − political and economic. An almost complete economic deregulation of the media in Slovenia thus led to a number of irregularities in the privatization process, disrespect for the laws (which were lacking anyway) and the first cases of monopolization. These processes proved to have political consequences.

Ben Bagdikian[1] says that media changes can be counted among the numerous ironies of the 1980s. Post−communist countries chose to support the centripetal regulation of the media systems meaning that the media had to be removed as far from the power centers and centralized control as possible. Ironically, this coincides with the opposite trend in the western countries where the media increasingly come under the influence of the centrifugal forces that more and more push them towards the center of political decision−making. The role of the state, formerly the center of control over the media, was taken over by corporations. In Eastern and Central Europe the expectations related to democratization processes mostly focused on private property and market mechanisms (which, quite paradoxically, were expected to be secured by the state). By contrast, the West sees them as one of the obstacles in the way of democratization (Raboy, 1989: 7−8).[2] In other words, that which is considered to be the essential contradiction and an obstacle to democratization in the

West, is in the East seen as a pre−requisite for democratization. The 'historical fear' of the state and its institutions blinded post−socialist countries to the fact that it is precisely the state who must introduce safety mechanisms needed for the independent media operation, which in effect means that the state, in a way, self−limits its own unjustified interventions.[3]

The Slovene media market is small, so relatively modest financial resources suffice to establish control over it (especially in comparison with the sums involved in the takeovers and acquisitions in other European countries). Before the process of media privatization got underway, the Slovene state expected the invasion of large European and American corporations, similar to what has happened in some other countries, Hungary and Poland in particular. One decade later it is possible to conclude instead that a small number of local owners with stakes in numerous affiliated companies control the major part of the Slovene media market. The concentration is still in progress, while cross−ownership ties remain unchanged. It is obvious that the state, or rather its supervising institutions, do not have any mechanism (and no interest) to introduce order into this field.

Moreover, the legislative body has overlooked another important fact, namely that privatization has nothing to do with the ethics of the media operation, and even less so with the accountability of the media to the public. The democratic and plural media, which were expected to be secured through the Mass Media Act of 1994, proved to have a high price. In democratic societies the prevention of media monopolization is the responsibility of the state. However, in a system which is subject to voluntary steps by the state, market and new owners, that is to say, in which there are no legal and financial conditions for plurality of the media, it is not possible to talk of media freedom.

The privatization of the print media was different from that of the broadcast companies. The popular remark that owning a television station is a 'license to print money' should be taken with all seriousness in the case of Slovenia. According to the publicly available information, private TV stations in Slovenia mostly operate at a loss, yet when their owners decide to sell ownership shares (occasionally to several buyers at a time) they fetch exorbitant prices. What, then, sets apart audio−visual operators from other media companies? The answer is simple: the limited number of frequencies that are subject to specific terms of use and allocated for a limited number of years.

The media law that was adopted in 1994 was based on the assumption that media privatization would not attract much attention on the part of the local buyers. However, it soon became obvious that the demand for broadcasting licenses was high. From 1990 to 1994, the year the Mass Media Act came into force, and months after that, the national authority for telecommunications was granting broadcasting licenses despite the fact that it had no adequate legal basis for licensing. Under the pretense of democratization and public pressure, in March 1993 broadcasting licenses began to be awarded to the commercial media. By 22 April 1994 all important broadcasting frequencies, that is to say, those with the nation−wide coverage, were allocated. It was not by chance that the Mass Media Act, which specified methods and terms under which a broadcasting license could be granted, was passed only one day after the last important broadcasting license was awarded (to TV3). The newly established supervising authority, the Broadcasting Council, which in accordance with the above−said law became responsible for license allocations, thus 'inherited' a depleted frequency fund, a chaotic ownership situation in the newly founded media companies, and inadequate (or even non−existent) program plans which served as the basis for allocating broadcasting licenses.

Article 58 of the Mass Media Act of 1994 specified the responsibilities of the Broadcasting Council as follows: protecting the freedom of communications; ensuring independent editorial policy, openness and plurality of radio and TV programs; exercising control over the activities of radio and television organizations and cable operators in Slovenia; establishing criteria for defining which radio and television programs are non−commercial; proposing to the appointed body (Telecommunications Agency in this case) an allocation or revocation of a broadcasting license; and shaping the policy of frequency band and channel allocation. In other words, the Council was entrusted with supervising things which it should have defined in the first place, before all key frequencies were allocated. Another point we would like to stress is that none of the Council's annual reports, which have been regularly submitted to the National Assembly ever since its foundation in 1995, has been publicly discussed so far.

All radio broadcasting licenses were allocated free of charge, which is a unique example not found in other European countries. For example, Hungary was the last among the East European countries to allow private radio and television stations. On adopting a new media law, it decided to privatize the second channel of the national TV i.e. TV2 and simultaneously released a new frequency band that was previously used by the Soviet army stationed in Hungary. This made room for two new private television stations. Moreover, the Hungarians went one step further than the neighboring countries as regards the legislation. Hungary was the first East European country to put up available frequencies for public sale, and also the first to offer two programs, which prevented monopolizing. Any business consortium in which any one company could have the maximum of a 49% share, and Hungarian partners had at least a 26% share, could compete for the license. Three consortiums were formed. The first was headed by the German−Benelux corporation named CLT−Ufa, the second by SBS and the third by CME. The winning bidders will pay US$ 50 for the 10−year concession, with a down payment for the first three−year period. Yet everybody is convinced that the price is not too high. In 1997, before broadcasting licenses were put up for sale, the Hungarian advertising cake was worth US$ 188 million with an annual growth of 18%. For comparison purposes, the Slovene advertising cake in the same year amounted to US$ 35 million.

New dailies did not tip the balance on the press market

If one wants to understand fully the implications of the current debate on the media in Slovenia, we must first analyze some vital questions that were formulated over the last decade − the implementation of the media law, the issue of control, the privatization of the former 'socially owned' media, some political attempts to establish new media, the concentration of media ownership, and attempts at 'political' takeovers of the biggest Slovene daily newspapers.

All the existing daily newspapers (except for*Slovenske* novice) originate from the previous system and they were privatized through internal buyouts and internal distribution of shares. All three dailies that were formed after 1990, that is, *Slovenec*, *Republika* and *Jutranjik*, failed. Today, the four biggest media companies (*Delo*, *Dnevnik*, *Vecer*, *Slovenske novice*), control more than 90 % of the daily newspaper market.

The transformation of a socially owned company into a company with known owners is governed by the Transformation of the Ownership of Enterprises Act (Uradni list, 55, 1992: 3117−3124). Once the ownership transformation is completed, the company is entered into the company register (Article 8).

Under the provisions of this law, the company draws up a transformation of ownership plan subject to the approval by the authorized agency. The company may choose any combination of privatization methods stated in Article 18. These methods include allocation of common shares to three state funds, internal distribution of shares, and employee buyout among others. The company issues common shares for the socially−owned capital which is defined as a difference between the company's total assets and its liabilities.

Article 22 prescribes that common shares are allocated to the state funds in the following proportions: 10% of the shares are allocated to the Pension Fund, 10% to the Indemnification Fund, and 20% to the Development Fund for the purpose of further distribution of shares to authorized investment corporations (so−called PIDs).

Articles 24 and 25 specify the details of the internal buyout by which that part of the company's value that is undergoing *de facto* privatization is distributed. Under these provisions, a company transfers to the Development Fund the part of the socially−owned capital as specified in the internal buyout scheme. These shares are sold at 25% discount and more than one−third of the employees must participate in the buyout. In addition, within the next four years a company must buy back from this fund at least one−fourth of these shares annually, at a price that is equal to their nominal value. The company may not grant any loans or issue any guarantees to the employees for the purchase of common shares. The internal buyout may be effected through direct deductions from monthly salaries, profits or individual payments either in money or securities. The part that is not privatized becomes the property of the Development Fund, which can sell it to others.

Article 23 specifies the rules of the internal distribution of shares according to which a maximum of 20% of the socially−owned capital may be distributed in exchange for ownership certificates issued by the state.

We would like to draw attention to Article 48 which refers to the audit procedure in companies which, from 1 January 1990 to the day this law came into force (i.e. 1992), underwent some type of status transformation or reorganization and there was suspicion that the social property of these companies was diminished. According to this article, the audit takes place if there is reasonable ground for suspicion that:

− The social property was diminished through the purchase of the company or its part, or through the transformation by increasing the ownership capital of the employees or some of the employees, or their family members or third parties by means of non−revalued loans, or an initial moratorium on the principal repayment, or a guarantee issued by the company, or a deposit.
− Business operations or results were transferred to one or more by−pass companies in which employees of the company or their relatives or other natural or legal persons have ownership control, or are sole owners or co−owners of the company.
− A private or mixed−ownership company was founded or co−founded by one or more employees or their family members.

Privatization of the largest Slovene daily newspaper − *Delo*

Relentless commercialization was related to an absence of media legislation and attempts to take advantage of the 'legal vacuum' and introduce such legislation as would seriously jeopardize the survival of independent newspapers. The proposed law on the mass media, which was presented to parliament in November 1991, was based on the thesis prepared by the former government's Office for Information. Some critics argued that certain proposals represented an attempt to re−establish state control over the media. Another point at issue was whether it was reasonable to set apart the mass media law from the radio and TV law, and whether Slovenia actually needed any mass media law.

> If the state needs a law [on the mass media], the existing one is sufficiently convenient such as it is. The state actually needs a law to control the media, and indirectly, its citizens. Organizations involved in communications (institutions and companies) do not need any specific law; if anybody really needs a law, it is the citizens and civil society − to protect them from the oppressive power of the state and the market i.e. capital. A law is needed to define precisely the rights and freedoms of citizens and legal sanctions, and to ensure 'minimal standards' of democratic communication (Splichal, 1992c:24).[4]

Other issues discussed were who could become a 'new' owner of the media, whether the media could be privatized at all, and who should be entitled to appoint and change editors−in−chief or media executives. According to the debate going on at that time, the goal of the legislative body was to prevent political privatization of the media or rather, forestall political takeovers of the media which the new ruling power considered 'inappropriate', or more to the point, less pleasing. Seen from the perspective of arguments put forward at the time, and in the light of potential consequences, these debates were identical to the ones taking place now, ten years later.

In this section we explore the privatization of the biggest Slovene daily − *Delo*. Talking about the appointment of editors of Slovene newspapers in his interview for the Italian newspaper *Corriere della sera*, Lojze Peterle, the then prime minister, said:

> I find it abnormal that the government should not have other newspapers besides *Demokracija*. At any rate, as regards *Delo*, the most important daily newspaper, we adopted the conclusion that the candidate could be selected by an in−company invitation for applications, but the Government must agree with the decision (*Delo*, August 1 1990).

One week earlier, *Demokracija* published the opinion of Janez Jerovsek, the general manager of RTV Slovenija at the time.

> Not one press company or editorial board in western parliamentary democracies can be independent either from the owner or the government. But here we see endeavors to achieve this exceptional status [..]. the responsibility−bearing posts of editors in the national media may only be held by those individuals who can present first−rate references in the

> field of the media, culture or science. The control over this should be in the hands of Parliament.

Such was the atmosphere, coupled with the fall in both readership and circulation (in the period from 1991 to 1992 *Delo's* circulation decreased by 10.000 copies), that surrounded the beginning of the privatization of *Delo*. The survey made by the company management at the time showed that 93% of *Delo's* employees supported the ownership transformation by which the employees would become the majority shareholder. The goals of the privatization, as they were explained to the future shareholders, were as follows: to preserve the autonomy and independence of the company, to achieve better business results and to ensure the highest possible standard of living and work conditions for the employees, which would be based on capital gains among other things. The company decided on the following privatization scheme: 40% of the social capital was allocated to the state funds, namely the Pension Fund (10%), the Indemnification Fund (10%) and the Development Fund (20%), while the employees were to become a 60% owner. The internal buyout scheme was: 20% of the property was distributed to the employees, their close family members, former and retired employees in exchange for ownership certificates, 22% was to be sold through the internal buyout, and 18% was to be sold to *Delo's* readers.

Systematic changes brought about by privatization led to an increasingly greater dependence on advertising revenues meaning an ever bigger portion of the newspaper set aside for advertisements. In January 1992 *Delo* discontinued its *Opinions* page. The editorial board explained that it was replaced with a special section dealing with economy and finances, because in their opinion the importance of these fields for the young country was increasing. Another novel approach was contained in the statement that in the future the editorial board would more often exercise its right to edit and journalistically revise various official viewpoints (*Delo*, 1 January 1992).

In 1993 HIT posed several public questions to the Delo's management board regarding alleged irregularities during the privatization process. Delo presumably founded a by−pass company in order to exercise ownership control over*Slovenske novice*, in which capital injections by some leading people from Delo radically departed from those of other employees. Indeed the company register lists 148 names of journalists working for Delo and *Slovenske novice*. In an interview given to *Fokus* (9/10, July/August 1993), Danilo Slivnik, the deputy editor−in−chief of Delo at the time, commented thus on the journalist's statement that Novice was a classic example of a by−pass company:

> This is not true. *Slovenske novice's* capital structure is completely transparent with 51% of the capital private and 49% of it socially−owned, with this ratio later being changed to 60:40 in favor of the former through capital injections. The socially owned part will now be privatized. This is similar to what happened with Delo. Delo granted *Slovenske novice* a loan at 8% interest. We take every precaution when it comes to the privatization process, since we know that many would readily impute irregularities to us."[5]

To the question of whether the Ministry of Defense or some of its employees have invested capital in *Slovenske novice* , Slivnik answered:

> This is not true either. The capital invested is very transparent, and even if somebody, speaking hypothetically, bought a share from somebody else, the highest share amounts to 30.000 DM. Is this big money and what influence could one secure with it? Delo has 39% of the share capital in Novice, the rest are private owners."

The transformation of Delo actually started towards the end of the socialist era, in 1989, when Delo first became an independent socially−owned company. The proposal that Delo should become a parent company with five affiliated sister companies, which was based on the Enterprise Law, was publicly announced by the Reorganization Board of CGP Delo. The parent company was to be formed out of several existing units (then called Basic Organizations of Associated Labor or BOAL), namely Delo, Nasi razgledi, Revije, Prodaja, Stik, and a part of the joint administration service. The sister companies were to include Grafika, Novi Tednik (current name NT&RC), Globus, Gospodarski vestnik and Studio Marketing (Interno Delo, November 1989, Referendumu na pot, December 1989). In June 1990, Delo BOAL became the founder of the newspaper Delo by a resolution of the Worker's Assembly. The resolution was approved by the Worker's Council and its external members. The explanatory note read: In this way Delo will officially become an independent newspaper not affiliated to any political party and serving the interests of the Slovene public (Delo, 18 June 1990). In the survey conducted by Delo (23 June 1990), 52.5% of respondents were of the opinion that Delo made the right move because such a newspaper must be independent in a multi−party system; 15.9% of respondents thought that it was the right move but the newspaper should be supervised by the representatives of the independent public; 24.5% of respondents answered that politics and journalism are two completely separate fields and that a newspaper should depend primarily on its readership and market success. The transformation process of the former BOAL Delo into an independent socially−owned enterprise was concluded with the registration of the company Delo d.o.o. (limited liability company) which took place in Ljubljana in April 1991. Delo's transformation gave rise to a number of public debates. *Demokracija* weekly newspaper published (on 24 July 1990) a letter, signed by the representatives of the Socialist Alliance of Workers which founded the former CGP Delo, in which they stated that they agreed with the transfer of founder rights. However, they explicitly stressed that the transfer did not apply to their ownership rights in CGP Delo and that "the signatories do not renounce their ownership rights in the newspaper Delo and CGP Delo". Delo published in the same issue an answer by Stane Stanic, then the Minister of Information, in which he stressed that "in the past years Delo received more than three−thirds of the total budget resources allocated to daily newspapers in the republic" (Delo, 24 July 1990).

In November 1995 the Privatization Agency issued an approval by which Delo became a joint−stock company. The original capital, which was to be converted into shares in the privatization process, amounted to 670 million Slovene tolars (SIT). Delo decided on the following privatization scheme: 20% of the capital was to be allocated through internal distribution, 40% through internal buyout, the Pension and Indemnification Funds were allocated 10% each, and the Development Fund 20%. In January 1999, Delo became the first media company in Slovenia listed on the Ljubljana stock exchange. Until that time the company's shares were sold on the gray market within the company, where their value rose to SIT 7.000[6] by the end of 1998. Once listed on the stock exchange, their value radically increased and amounted to SIT 20,000 within a single week (*Slovenski delnicar*, 6 March 1999). The ownership structure of Delo essentially changed in the years following privatization. The share of internal owners, originally 60%, fell by one half, while the share of external owners increased − especially through the concentration of the capital of one owner, that is, Krekova druzba.

In contrast to the situation in other East and Central European countries, the proportion of the foreign capital in Slovene daily newspapers is insignificant. The majority of dailies, save for *Finance*[7] whose 75% owner is Dagens Industri (Bonnier corporation), are owned by Slovene corporations. Admittedly, in the past some foreign investors expressed interest in acquiring ownership stakes in Delo. In the early 1990s the late British media mogul Maxwell was interested in the purchase of Delo offering technological improvements and the publishing of a Slovene edition of *European*. Another company interested in the majority ownership was the Bavarian media concern OVB, which similarly offered technological improvements and assistance with the regional expansion of the newspaper. After the privatization procedure was completed, the Bavarian company withdrew its offer. The interest in ownership has been recently expressed by the German newspaper publisher WAZ, which controls the major part of the newspaper market in Austria, some regional newspapers in Hungary and Bulgaria, and the Croatian media success *Jutarnji list*.[8] WAZ was interested in becoming a 51% shareholder, whereby one third of shares were planned to be bought by WAZ itself (that much is allowed by law) and two thirds by another concern. The management of Delo turned down this offer but they expressed interest in negotiating business cooperation in the future based on the equality principle. WAZ proposed a similar offer to *Vecer*, a Maribor daily. Another foreign investor that was interested in both Vecer and Croatian Vecernji list was the Austrian company Styria. The future course of the development of Slovene newspapers thus obviously depends on the restrictions that will be imposed upon the newspaper market in Slovenia. Delo is expected to seek business links abroad, while Vecer plans to work towards strategic alliances with the local media companies in Slovenia. In an interview given to *Gospodarski vestnik* (6 April 2000), the director of Delo stated that it would be sensible to seek affiliates outside Slovenia. He mentioned the Croatian newspaper *Slobodna Dalmacija*, the Macedonian newspaper *Nova Makedonija* and Sarajevo−based *Oslobodjenje*. According to his words, Delo postponed the development of its own television and radio station because of legal restrictions, but it did not drop the plans (GV, 6 April 2000). In the summer of 2000 the four members of the Delo's management board visited Split where they had talks with the management and editorial board of *Slobodna Dalmacija*. The management of *Slobodna Dalmacija* invited Delo to join other foreign investors who were interested in the majority ownership in this newspaper (among the potential buyers mentioned were WAZ, French Hachette, and Italian mogul Berlusconi). The project is said to be promising in the long run. Delo, however, is interested only in the newspaper section which includes a well−established radio station.

The ownership transformation of Vecer

In contrast to Delo, the Maribor daily *Vecer* concentrated on establishing business links, or to be more precise, purchasing the local media. Accordingly it proposed a merger with several local media companies in Murska Sobota (i.e. Podjetje za informiranje which comprises the local weekly *Vestnik*, the non−commercial radio station *Murski val* and an advertising agency), Celje (a joint−stock company NT&RC which brings together *Novi tednik* newspaper, radio station *Radio Celje* and a common advertising agency), and Ptuj (*Radio Ptuj* station and *Tednik* weekly). In the words of the then manager of Vecer, they did not have a takeover in mind, but wanted to create a new company which would improve the market position of all the merged companies. The ownership structure of the companies that were proposed to merge is as follows: 90% of Podjetje za informiranje, Murska Sobota is owned by its employees, and 10% by the Capital Fund. The biggest shareholders in NT&RC, Celje are Antena Ena d.d. (20%), Cerovsek Joze (13.8%), pension and indemnification funds (10% each) and Delo TCR d.d. which has somewhat more than 6%. The one−third owner of Tednik (Ptuj) and 33% owner of Vecer (Maribor) is KBM Infond. Obviously, the initiative for a merger came from the joint owner KBM Infond who is not interested in a 10% ownership of these media but rather in a complete takeover.

Even if we ignore for the moment the economic reasons (or absence of economic reasons) for this type of affiliation, there still remains the question of the legal foundation. Article 40 of the Mass Media Act of 1994 valid at the time restricted cross−ownership by prohibiting a publisher of a daily newspaper to have more than a 10% share in another publisher of a daily newspaper or radio and television company. In other words, if the above−mentioned merger scenario were implemented, the biggest losers would be local radio stations. Given the legal provisions valid at the time, the merger would have left them without broadcasting licenses. To the question of how they intended to 'circumvent' ('evade' or breach) Article 40 of the Mass Media Act if the merger took place, the director of CZP Vecer answered that he expected changes in the new media law, arguing that it was not logical that Slovene media owners did not have the same rights as foreign owners in Slovenia, and he mentioned *POP TV* as a case in point (*Delo*, 10 September 1999).

The lack of interest on the part of the authorities to achieve the transparency of the ownership structure and individual shares in the Slovene media has been most obvious in the case of the largest private radio and television station operating under the joint trademark *POP TV*. The loose and ambiguous provisions of the Mass Media Act of 1994 could not be used either to stop or prevent 'frequency hunters', nor various forms of 'broadcasting license re−selling'. As for the latter, we do not have in mind the sale or illegal transfer of a broadcasting license to another party − both were prohibited by the Law on Telecommunications and the Mass Media Act − but an illegal use of a frequency by a third party not having a license to broadcast on that frequency, which was not mentioned in the Mass Media Act of 1994. Therefore, the rights supposedly 'enjoyed by foreigners' were in fact arising from deficient legislation.

In 1994 (after the purchase of the bankrupt Mariborski tisk), Leykam printing house, whose 100% owner is the Austrian Leykam Media AG[9], signed a ten−year printing contract with Vecer. Leykam, who is said to be interested in a 25% to 40% stake in Vecer, acquired its present 10% stake by purchasing shares from small shareholders. In the statement given to Dnevnik (6 July 2000), the manager of DZU KBM Infond expressed his opinion that "Austrian interests in Vecer are not related only to capital, but conceal other types of interests too". However, he did not explain exactly what interests he had in mind.

It was precisely DZU KBM Infond who made the last extensive purchase of *Vecer's* shares, so it currently owns almost 33% of *Vecer*. Towards the end of 2000 it became obvious that *Vecer* and *Dnevnik* were working towards affiliation. If affiliated, *Dnevnik* and *Vecer* would be capable of winning a 46%

share of the daily newspaper market and would thus become a strong competitor of Delo (which holds 42% of the market). The top executives of both companies assured that business links were aimed at 'protecting the interests of the owners' (*Vecer*, 13 October 2000) rather than merging the two media or shaping a common editorial policy (*Finance*, 11 October 2000). The idea about the merger came from the management circles of both companies (a quite important role was presumably played by DZS[10] which is the biggest owner of *Dnevnik*). Obviously, the merger is an attempt by KBM Infond − which has its 'own' 33% stake in *Vecer* and, in addition, can 'count on' Talum's (13%) and Dnevnik's stakes (6.5%) − and DZS to create a competitor to Delo. The combined circulation of *Dnevnik* and *Vecer* is not much behind that of *Delo*, but more importantly, the merger would secure them a better position in the struggle for the 'advertising' money. Yet the question remains of what is going to happen if the business partnership between the two companies does not yield the profits foreseen by their owners?

Delo and *Slovenske novice*, in which Delo is the majority owner,[11] today cover 60% of the daily newspaper market. The four biggest dailies control almost 90% of the market. Before we proceed to answer the question of whether it is possible to talk of the ownership concentration in Slovenia, we will briefly describe the outcome of some (in our opinion) political attempts at establishing new dailies.

Slovenec, the first new−comer with short life

In March 1991 Lojze Peterle, the prime minister at the time, managed to introduce a new item into the state budget − 28 million dinars[12] fund (DEM 2.8 million) intended for the democratization of the media and the launching of new media. The majority portion of this fund was dedicated to the foundation of a new daily, *Slovenec*, and a smaller portion to *Demokracija*. According to the data in the company register, *Slovenec* had 20 founders (their total investment amounted to 200,000 dinars, the currency that was still in use at the time). The biggest contributors were the subsequent director of Slovenec (Pavel Bratina), Joze Bernik and Johan Tomazic. The biggest shareholders in the consortium of owners of Slovenec d.o.o. were Slovene Christian Democratic Party (SKD), *Druzina* weekly magazine and several expatriates. The Catholic Church acquired owner shares through Dr. Janez Gril because the provisions in the Mass Media Act prevented it from purchasing shares directly. The executive board appointed Andrej Rot, an expatriate, as the first editor−in−chief. He returned from Argentina together with his family to take up this post and his repatriation was financed from the Repatriation Fund set up by the executive committee of the Slovene Christian Democratic Party as a part of the repatriation program that was later abandoned. In the words of Andrej Rot himself, the first issues of the newspaper were 'disastrous' (Jana, 21 August 1991).

> A number of difficulties accompanied the founding of the newspaper, ranging from financial to staff−related ones. The existing media companies are strong, people are not used to changing jobs, they do not want to take risks. In addition, many were afraid that this was going to be a very right−oriented, clerical, even pro−governmental newspaper. That is why I always stressed editorial principles on which it was based: Christian ethics, democracy, pluralism, introducing the way of thinking oriented towards the market economy

said Andrej Rot in an interview for 7D (13 November 1991). The initial enthusiasm soon faded away though. In the beginning, that is, in June 1991, *Slovenec's* advertising slogan was "Every day 80,000 Slovenes more[13] ". The initial circulation− 80,000 copies − revealed how very optimistic their plans were. But within the next few months it slipped to 10,000 copies, and they ended up with just 5000 copies sold. The last issue came out in November 1996, and in January 1997 the company was declared bankrupt. The editorial in the July issue (13 July 2000) read: "Five years ago Slovenec set out on its journey across the media world with the slogan "Every day 80,000 Slovenes more". Another few days and we will have to say 'One Slovene less'. How is such an unprecedented scandal at all possible?"

The chronology of *Slovenec's* downfall is quite illustrative. In November 1991, five months after the first issue was published, Mr Rot was replaced. The titles in competitor newspapers read "Rot − the victim of the Chicago−based Right−Wing", "Editor sacrificed for Chicago dollars" and such like. *Clarin*, the Buenos Aires's daily in Spanish with the largest circulation, featured a comment claiming that "the removal of moderate Rot was a part of the price that Slovenec paid for the capital obtained from the Slovene diaspora in Chicago". Whatever the truth, this event did not add to the image of the newspaper among the Slovene public. Rot's replacement triggered an infinite series of the top executives' replacements. The last editor−in−chief before the paper went bankrupt was Miha ·tamcar, the present editor−in−chief of the Mladina weekly. The replacements, which among other things inspired rumors about the newspaper's radical right orientation, created an impression of instability in the eyes of the public and also had negative effect on the circulation because they repelled readers belonging to the political center (*Delo*, 4 May 1996). Even though the right and center−right parties won 40% of votes at the elections, the Slovene right never consolidated around its 'own' newspaper. In May 1994, the representatives of Slovenec and 6,782 members of the Social Democratic Party of Slovenia (SDSS) received a letter with the following content:

> On the basis of the agreement between the SDSS's leadership and representatives of Slovenec, I invite all SDSS members to participate in Slovenec with their own articles. (...) In connection with this we expect that the members of our party will subscribe to Slovenec, which will make possible its publishing in the future. SDSS will support the editorial policy of Slovenec to the extent to which it continues to support the viewpoints of the political parties of the democratic block. Therefore we enclose the subscription form for Slovenec."

The letter was signed by Janez Jansa.

The newspaper's image and circulation were affected by many things − the internal political disagreements that spilled over into an open conflict, publicly expressed opinions of some journalists who worked for Slovenec that the newspaper should engage more in political affairs and party politics, giving priority to political factors over professional criteria when appointing top executives, absence of interest and economic nonchalance of its owners. Moreover, the conflicts led to journalists' strikes, staged after the salaries were not paid out for several months, and eventually to bankruptcy.

Slovenec d.o.o., the publisher of the daily, ended up with one billion tolars debt piled on its shoulders. The employees' warnings that the debt could not be settled with the money obtained from the sale of the trademark and subscribers network proved true. The company's property was reduced to approximately one million tolars left in the bank account and a few thousands German marks worth of office equipment. However, one should not overlook the fact that computers and other technical equipment were transferred to the by−pass company. The total amount that Slovenec owed to its employees was SIT 19 million, out of this the former director and editor−in−chief owed SIT 1.7 million. Slovenec's biggest creditors were SCT and Info Grafika[14], with claims amounting to SIT 340 million each, and Krekova banka with SIT 25 million of claims. Among smaller creditors were SKB Banka, Lek, Mobitel, and Reuters London. Nobody turned out at the public auction despite the rumors that *Delo*, the biggest Slovene daily, was interested in the purchase.

Venceslav Japelj, then president of the Trade Union of Journalists, wrote that the management of Slovenec ventured into the new project "in an amateurish and adventuresome manner with regard to its economic side". In his opinion, *Slovenec* was equated with SKD party, "so the recent events left a blemish on the image of this political party" (Vecer, 7 December 1996). The trade union assessed that Slovenia needed a newspaper similarly oriented, yet in their opinion the founding of a new newspaper would take much more time and be much more expensive than if they kept the existing paper alive. The failure of *Slovenec* disclosed a complete lack of interest on the part of the owner for its own newspaper. Even the journalists have concluded that "the newspaper market is perhaps the only real market in Slovenia, where one has to defend its position day in day out through the quality of work" (*Delo*, 5 December 1996) and that the "biggest challenge for Slovene journalism is to create a reputable right−oriented national daily that will attract wide readership" (*Slovenske novice*, 29 November 1996).

Republika follows the suit

In January 1992 *Delo* featured an item stating that *Primorski dnevnik* (a local newspaper) intended to establish a sixth national political daily called *Republika*. Comparable to the foundation of *Slovenec*, the birth of *Republika* similarly took on political overtones. It was allegedly founded with a strong support of certain left political circles, which embarked on the establishment of a new daily in order to counterbalance the media ambitions of the right−leaning circles. Gianni de Michelis, then the Italian foreign minister, was expected to provide 6 billion Italian lira, but the expectations failed. The first issue of *Republika* came out in November 1992. It had 16 pages and was the first color daily besides *Slovenske novice*. The greatest surprise was the prominence given to the culture section which occupied the third page (to tell the truth, the cultural page was one of the strongest points of *Slovenec*). Vast sums of money were invested in the initial advertising campaign. Its costs considerably exhausted the budget and the consequences were soon suffered. The newspaper was printed in Trieste, so the transport and distribution presented difficulties and affected the circulation. Some subscribers did not receive the newspaper for a whole week, so many cancelled their subscription. Equally detrimental were "internal mistakes". The majority of *Republika's* renowned journalists previously worked for radio or television stations meaning they had no experience with the print media. It seems appropriate to mention here that most of them were attracted to *Republika* by extremely high earnings. And potential readership? According to the words of the fourth editor−in chief (in this respect *Republika* is comparable to *Slovenec* where each editor lasted on average about one year), *Republika* made a mistake in assuming that "having a daily in color would be novel enough to take over a part of the readership. It turned out later that Slovenes are quite attached to the newspapers to which they are subscribed" (*Delo*, 4 May 1996). In September 1995 *Finance* newspaper was the first to pose publicly the well known question: "How long before *Republika* winds up?" In March 1996 *Slovenske novice* featured an article about the impending collapse of *Republika*. Roughly around this time the new owners requested a meeting with the prime minister Drnovsek from whom they sought financial support. But it was already too late to prevent the decline (and eventually the winding up) of the newspaper. The renowned journalists began to leave, the fees for the articles were paid out with several month delay or not at all, while advertising revenues virtually dried up. The opinions of the executives of both *Republika* and *Slovenec* regarding the question of whether the Slovene newspaper market could sustain six national daily newspapers were similar. In an interview in 1995 Janez Obreza[15] said that four dailies in Slovenia should suffice. The executives in *Republika* held similar opinion. "Given the size of the country, six dailies are quite a lot. If we leave the things to the market forces, only two, or three media companies at the most will stay" (Delo, 4 May 1996).

A small market is peculiar to Slovenia, but a small number of newspapers controlling the entire market is nothing unusual − rather it is the rule in other world markets. The number of dailies decreases, as does the number and circulation of political papers, especially political parties' papers. Twenty years ago Austria, for example, had 33 newspapers with only 16 remaining on the scene today. Out of these, the tabloid *Neue Kronenzeitung* holds 42.2% of the market. Germany experienced a similar phenomenon with the number of newspapers declining and the number of towns served by only one daily increasing. This trend is even more radical in the US: as many as 98% of the cities, including some with several million people like Los Angeles and Philadelphia, have just one or two dailies published by the same media company. It is true that the "index of pluralism" is two newspapers per one million people. In accordance with this, four national newspapers altogether would suffice in Slovenia.

The designers of the *Slovenec* and *Republika* projects, and those of an even more tragic story of *Jutranjik*, a newspaper which expired within one month of its appearance in June 1998, started from primarily political interests as their point of departure. One could even argue that all of these projects were political rather than market−oriented. They completely overlooked the characteristics (and idiosyncrasies) of the Slovene newspaper market as well as current trends prevailing abroad. Without necessary financial resources for the start−up phase, and lacking in adequate professional criteria, the projects could not but end in failure.

Media plurality in Slovenia

How, then, can plurality of the Slovene media be ensured? Our basic assumption is that plurality of the media can be achieved exclusively through adequate legislation, and that plurality has nothing to do with a (non)affinity of any specific government, political party or the media owner. The section entitled The Protection of Plurality of the Mass Media Act of 1994 dealt exclusively with external (owner−related) plurality, and did not as much as mention internal plurality (of content).

In November 1998 an MP of the former SKD party proposed amendments to the Mass Media Act of 1994. According to this proposal, plurality and diversity of the public media should be ensured through funding from the state budget in a way that the state should give financial aid to those media that are published in Slovenia, in Slovene language, deal predominantly with political events and have a circulation between 10,000 and 25,000. The resources (the proposed sum was SIT 5 billion) should have been allocated by a commission formed by the Ministry of Culture, and whose members would be appointed by the minister in accordance with the proposal of parliamentary groups in the National Assembly. The same fund should be used to cover the entire annual deficit of a newspaper that is entitled to state aid.

State aid to the public media (we will limit our analysis here to the print media), may take on one of the following forms: direct aid in the form of subsidies and grants for day−to−day operation, favorable tax treatment (lower VAT rates and lower tax on profits), subsidies and lower interest on loans, and special discount rates for telecommunication and transport services. Direct aid to the newspaper in the form proposed by the former SKD was, according to SKD's data, available in Austria, The Netherlands, Portugal, Sweden, Finland, France, Italy, Belgium, Luxembourg, and Germany. However, the data of relevant European institutions and an exceptionally detailed report prepared by the research group of SKD for the needs of parliament point to a different conclusion. Direct state aid is unknown in Germany, it does exist in Belgium but applies to the Flemish community exclusively, while in Italy and The Netherlands it is limited and given to political parties' papers only. In Germany, the state 'helps' the public media through lower VAT (7% instead of the standard 16%) and discounts on telecommunications (postal services in the first place) and transport services. Similar arrangements exist in Switzerland and Great Britain. There are no direct subsidies in The Netherlands, but the newspapers and journals can turn to the Press Fund for subsidies to finance new projects. The Fund grants loans for political dailies and weeklies on the basis of its assessment of each individual case.

We will now proceed with a brief overlook of merely 'technical difficulties' that would be faced by the proposed commission when allocating budget resources. Out of all the printed publications in Slovenia, 370 are public media, and more than 160 of those are classified as newspapers. Most of them have a circulation between 10,000 and 100,000. The commission would thus have to establish first which media "deal predominantly with political issues " and at the same time do not exceed a circulation of 25,000. Indeed the first versions of the currently valid Mass Media Act included the provision that all print media should print their circulation data, but this stirred up sharp opposition among the representatives of the print media (which data − daily, yesterday's, weekly circulation, or average number of copies per month, all printed copies of the newspaper or just the number of copies sold), so eventually this provision was removed from the law.

Do the described developments not imply that certain political circles (parties) thought that the existing media could not be tailored to suit the interests of a specific party, so they needed their own (parties') media to create an impression of plurality? Wouldn't it be better then to have political parties' newspapers (perhaps subsidized by the state) with a clear ideological orientation? Don't past experiences make it quite evident that a daily conceptualized as a political project cannot hope for success?

The 'story' of securing media plurality is far from being concluded. The so−called 'Zmed' proposal, put forward by the new government in June 2000, included an amendment referring to the establishment of the Media Fund. The main stumbling block was the first item of the second paragraph of the newly proposed Article 4a. It specified that the Fund should be used to ensure plurality of the "generalist information−providing weeklies". The proposer i.e. the government, gave an official explanation that "after five years of media liberalization the time has come for the state to begin to shape and support deliberately the media policy by providing aid for the pluralization of the print media in order to encourage the development of the independent audio−visual production and distribution" and other aspects related to electronic media exclusively. If this item and related provisions were not included in the amendment, other proposed changes would probably have not met with objections. Other proposed changes specified that the budget fund should be used to encourage the development of audio−visual production in Slovene language, to co−finance the development of radio and television programs of special importance for Slovenia, programs by *RTV Slovenia,* and the development of technological infrastructure. Probably all of the involved parties would agree with these provisions, including commercial, non−commercial, regional and public service radio and TV stations. One of the requirements of the EU is an increase in local and European TV production, as the economy of scale is cheaper than local production which is under the constraints of both language and market. On the other hand, the interest of the state and the domestic public in supporting domestic production through subsidies of this kind is quite understandable.

The 'Zmed' proposal further stipulated that a group of independent experts should be responsible for budget allocation with the decisions based on the following criteria:

1. Regular and objective presentation of the activities and viewpoints of the parties in power and in opposition.
2. The average number of copies of a daily or weekly sold (the proposal here contradicts itself, since just a few lines above it is stated that only daily newspapers should be subsidized).
3. The average number of copyrighted articles per issue.
4. The volume of the information content of general interest, cultural, scientific and educational content.

The difficulty with these criteria is that a truly independent commission would sooner grant a subsidy to Dnevnik, Vecer or Delo than, say, to Slovenec, Republika or Jutranjik. The first three of these newspapers, who according to the proposal would be entitled to apply for funding the same as any newcomer, satisfy the criteria to a much greater extent than any newly−established daily could possibly hope for. They feature a number of non−commercial sections, for example a science and development section, culture and literature, meaning that they take care that their readers are informed as well as possible and maintain public debate at the highest possible level.

This was precisely the difficulty with the proposed method of subsidizing. The criteria mentioned regular and objective presentation of political views, circulation, the number of copyrighted articles, and the extent of commercial and less commercial contents. This meant that a newspaper that regularly reported what politicians said and on top of that was lucky enough to satisfy quantitative conditions, would qualify for subsidy. On the other hand, the need to improve the level of public debate and communications and provide quality and diverse information was not as much as mentioned either by the proposer or by anybody else.

Similarly, the proposal did not mention non−discriminatory forms of aid to the print media or media in general, that is, tax subsidies, discount rates for telecommunication services, lower prices of paper and the like, that is to say, the forms of aid which are used by the majority of European countries to support their mass media.

A number of the EU recommendations and documents often mention that an important factor which, in addition to the state aid, obstructs media monopolization, are ownership restrictions, or rather the prohibition of the cross−ownership. European 'demands' regarding this are very simple: transparency of ownership and the possibility of effective control. The next section will show that precisely those clauses of the Mass Media Act regulating the transparency of ownership, were the ones most frequently violated.

Legal restrictions on ownership were lacking

The third section of the Mass Media Act of 1994 entitled the Protection of Plurality and Diversity specified restrictions on ownership (Article 39) and cross−ownership (Article 40). An additional clause applied to the owners of the public media and pertaining to the public nature of their operation, sources of financing, and changes in stock capital. According to this law, this information should be published at the beginning of each calendar year in the Official Gazette (Article 42). In addition, media owners were subject to the Law on the Protection of Competition, which also should have prevented the concentration of the media (Mass Media Act, Article 43). The main deficiency of these clauses lay in their failure to stipulate legal sanctions for violations.

In the next few sections we give a brief overview of the biggest media owners in Slovenia, explain where the media capital is concentrated, and attempt to answer the question of whether it is possible to conclude that certain concentration trends prevail in Slovenia. Our main conclusion is that the state, or rather its authorized agencies, allowed media privatization to take place without any supervision.

As noted above, under the privatization law a certain portion of the socially−owned capital (shares) was allocated to three state funds, namely the Pension, Indemnification and Development funds. However, when the shares of the media companies were put up for sale (note that these shares were in effect indirectly sold by the state), the supervising institutions did not check who were the owners of the companies that purchased these shares (neither in the case of public auctions nor in cases where certain institutions warned about prohibited cross−ownership). When on 21 January 2000, the Slovene Development Corporation (SRD) announced a public offering for shares (the shares in question were mostly those of non−commercial local radio stations *·tajerski val* and *Radio Triglav*), which was aimed at filling up the privatization deficit in authorized investment companies (PIDs), the Broadcasting Council warned Slovene Development Corporation that when selecting a buyer they should take into account restrictions specified in Articles 39 and 40 of the Mass Media Act. The most 'active' buyers of shares are Kmecka druzba's PIDs, KBM Infond and Krekova druzba, all of which acquired ownership shares in contravention of these clauses and moreover, they continue to do so. Indeed Article 40 of the Mass Media Act of 1994 exempted the Funds mentioned in Article 22 of the Transformation of Ownership Act from the restrictions specified in Articles 39 and 40, whereby the exempted Funds were listed by name. However, subsequent owners were not exempted from these provisions of the Mass Media Act. Kmecka druzba, for example, has been concentrating its investments for quite some time now primarily in the local, non−commercial radio stations, such as *Radio Brezice*, *Radio Kranj, Koroski radio, Radio Sora* (it holds between 26% and 40% of a share in these stations). In addition, Kmecka druzba has a 25% stake in *Dnevnik*. In his answer to the objection that the company violated the rules when it bought one−fifth of *·tajerski val* radio station, the director of Kmecka druzba stressed that it was the seller, that is SRD, who should have given warning if the transactions were inconsistent with legal provisions (GV, 9 March 2000).

Other companies similarly violated the law. Among them are KBM *Infond*, the 32% owner of *Vecer* and *Radio−Tednik* Ptuj, which broadcasts the local non−commercial program at *Radio Ptuj* (KBM Infond's stakes in other media companies include 2.5% in *Delo*, 24% in *Primorske novice* and 50% in *Gospodarski vestnik*), and Krekova druzba who owns 25% of *Delo* and 32% of *TV3*. All of these ownership shares were in contravention of Article 40 of the Mass Media Act of 1994, according to which an owner of a radio or TV company or a publisher of a daily newspaper could have a maximum 10% share in another radio and TV company or another publisher of a daily newspaper. Broadcasting Council issued a letter in which it appealed to the Slovene Development Corporation not to contribute to the creation of an unlawful situation, media concentration and monopolization through their decisions, which is in contravention of the fundamental principles of a plural and democratic society (Broadcasting Council, 24 February 2000).

Was the Mass Media Act violated in the above−mentioned cases? Laws are interpreted differently. The Under−Secretary of the State at the Ministry of Culture states that media ownership was subject to the Mass Media Act. According to him, the provisions of the laws regulating competition and ownership transformation of companies did not apply to the media companies (GV, 9 March 2000). The executives of Krekova druzba assert that *Delo* and *TV3* are owned by two different owners − the co−owners of *Delo* are authorized investment companies (PIDs) of Krekova druzba, while a one−third owner of *TV3* is Krekova druzba itself (GV, 9 March 2000).

Kaptilaska druzba has shares in two dailies (*Delo* and *Dnevnik*), in thirteen print houses and three local non−commercial radio stations. Odskodninska druzba on the other hand concentrated its capital in local radio stations (13) and all three dailies.

We would like to draw attention to one paradox. The state, on the one hand, endeavors to ensure plurality of the media by imposing restrictions on the ownership, but on the other, through its funds sells 'its own' shares in these media companies to one and the same group of buyers. The media capital usually becomes concentrated when pseudo−state funds sell their shares. Consequently, several crucial questions arise from this story: what about the ownership shares of 'affiliated entities', is it necessary at all to impose legal restrictions on ownership shares of individual owners (for example, before a transparent ownership structure has been achieved), and whether present purchases conceal primarily political interests of future owners who do not invest in the media just for profit−making purposes but, above all, see in them an opportunity to exert political influence on society?

The initiative for the changes and amendments to the Mass Media Act of 1994, prepared by Broadcasting Council in June 1997, stressed in particular the issue of defining the so−called 'associated persons' who were the owners of individual media (this was cited as one of the deficiencies of the legislation). The law should define 'associated persons' as persons affiliated through the capital, management functions or in some other form, in such a way that these affiliations lead to a common shaping of business policies, or to their harmonized operation with the aim of attaining common objectives, or in such a way that one person has a possibility of directing another one or essentially influencing the other person's decisions pertaining to finances and the way the company is run. Other associated persons are blood relations, that is, close family members (parents, children, brothers and sisters, adoptive parents and adopted children), a spouse, common law partners, and persons related through marriage like family members of a spouse or a common law partner. The second group of associated persons consists of persons having shares in business, holders of company shares or other rights on the basis of which they participate with at least 20% voting rights in the management of other companies (or each of them).

As for the major part of 'smaller' media owners in Slovenia − particularly in the radio broadcasting field − we can observe that these are mostly 'family' businesses with ownership shares held by family members, relatives or common law partners. However, thanks to the lack of legal definitions in Slovenia, even a married couple, parents or children were not considered associated persons. Similarly, affiliated companies or companies owned by the same person were not considered 'associated'. In practice, the shares of the majority owner were often subscribed to various (bogus) companies that are owned by other, apparently non−associated persons. Such an extremely 'dispersed' and non−transparent ownership structure makes it very difficult to establish actual ownership relations across the various media companies.

Article 57 of the Mass Media Act of 2001 defines 'associated persons' as follows: blood relations who are members of the close family, or blood relations of a spouse, or a common law partner. One could say that this law in a way 'summarizes' and at the same time prohibits all formerly prevalent types of associated ownership, particularly in the field of broadcasting.

We shall now briefly explore the 'history' of those articles of the currently valid media law i.e. Mass Media Act of 2001 which refer to ownership shares and restrictions on ownership concentration. The proposal for this law, which was drawn up by the Ministry of Culture (15 February 2000), in the section on the protection of plurality and diversity of the media (Articles 56 and 57), prescribed restrictions on cross−ownership (similar to those observed in France), the transparency of media management, defined associated persons, and it also included clauses on competition. The formerly proposed Article 54, which limited the maximum ownership share in a newspaper publisher company or a broadcast company to one−third or even less (20%), was taken out of this proposal for the purpose of facilitating the flow of capital within the media sector. Instead the proposal of the Ministry of Culture was that any natural or legal person could have an unlimited ownership share in a media company, or even be a majority or single owner. However, in May 2000, the Committee for Social Activities of the National Council expressed its support for the provisions previously outlined by Article 54. On the other hand, the Board for Culture, Sport and Education, at its session on 5 April 2000, gave its support to the new proposal, but pointed out that the cross−ownership restrictions should be included in order to prevent media power concentration. Obviously, once it became evident that the ownership structure of the biggest Slovene media was gradually changing in favor of external owners, the ideas about reducing the maximum share to 15% or even 10% re−emerged. In the front page article of Delo's *Saturday Supplement*, 19 February 2000, one could read that a more dispersed ownership would mean a better possibility of the newspaper staying independent.

/ In July 2000 the new right government presented a new proposal for the mass media law for a second reading (we should note here that this proposal was not drawn up in accordance with the parliamentary procedure). Article 56 of this proposal now again restricted ownership share of a natural or legal person or a group of associated persons to a 33% stake in a media company or a 33% share of management or voting rights. This oscillating between the restrictions and utter liberalization of ownership points to the fact that the state had no definite answer to the question of how the future media policy would (or should) look like.

The new Mass Media Act finally came into force on 26 May 2001.[16] Under this law, a publisher of a generalist information−providing daily, or any natural or legal person, or a group of associated persons who have more than 20% share in the capital or property of that publisher, or more than 20% of management or voting rights, may not be an owner or co−founder of a broadcaster of a radio or TV program, and may not engage in radio and television activities. The same restriction applies to a radio or television broadcaster, who may not be a publisher of a generalist information−providing daily. A publisher of a generalist, information−providing daily or a broadcaster of a radio or television program, that is, a legal or natural person or a group of associated persons may have maximum 20% ownership share or 20% management or voting rights in another newspaper publisher company or broadcaster company (Article 56). An acquisition of more than a 20% of the ownership (or management) share is subject to the prior approval by the Ministry of Culture. The Ministry can refuse to issue the approval in accordance with provisions contained in Article 58. This article, which at first glance defines restrictions on media concentration very clearly, imposes a very demanding task upon the Ministry of Culture, or rather, in our opinion, it is a task that is impossible to realize. As a matter of fact, according to the provisions of Article 58, when considering an application for the acquisition of shares in excess of the prescribed 20%, the Ministry of Culture should assess the currently prevailing situation in the media (or advertising) market. In connection with this, we shall mention just a few disputable issues that arise from current practice. Does the business daily *Finance* belong to the category of generalist, information−providing print media? What data will be used as the basis for establishing the situation currently prevailing in the advertisement market? How can the Ministry establish how many copies of a daily were sold (on the basis of the data published by the daily in question, or research data, or VAT forms)? How can one establish relations between apparently unassociated persons even though concealed relations are in some cases stronger than those arising from affiliated businesses?

The provisions of this law alone will not change anything in practice unless transparency of ownership structure, that is, data about owners and other people who may in any way influence[17] the media company operation or editorial policy, is achieved first. On the other hand, most of these provisions are belated anyway. Globalization of economy now gives rise to trans−national corporations that form affiliations and evade national laws by registering business in countries with more 'favorable' legislations.

How do other countries regulate ownership restriction? The US Communications Act prescribes that a company may not obtain a radio or TV broadcasting license if its director or manager is a foreigner, or if more than 20% of its shares are owned or controlled by foreigners, or if a company is under direct control of another company which is led by foreigners, or is owned or controlled by foreigners. Similarly, East European countries restricted ownership of electronic media too. The Czech Republic allowed a US company to buy the majority share in TV Nova, but the broadcasting license is subject to 31 special conditions. One of the conditions imposed upon the US owners was that throughout the first five years at least one−quarter of the programs must be of domestic production, with this share increasing to over 40% after a five−year period. Poland allows foreigners to buy shares in their national broadcast media, but no more than 33%. In addition, Polish citizens with a permanent residence in Poland must make up the majority in the council of directors and supervising board, while foreigners may not have more than one−third of the votes in the shareholders' council. The Hungarian law, as we noted before, specifies clear restrictions too.

Who, then, are the champions of the view that the limits on ownership shares in the Slovene media should be increased? Undoubtedly it is the present biggest owners. The representatives of Krekova druzba, for example, assert that Slovenia should follow the example of those developed countries that do not impose restrictions on media ownership. The owners should decide what they expect from a share in the media company − a profit or an opportunity to exert influence. However, the influence cannot be exerted if most of the newspaper or a program is not interesting to the audience (*Finance*, 3 May 2000). The representatives of Odskodninska druzba hold a similar opinion. Legal restrictions point to the concerns that some owner might exploit its rights in order to establish control over the medium, which is in fact possible (*Finance*, 3 May 2000). Even though the biggest owners and media executives endeavor to create an impression in public that their interests in the media are exclusively economic in character, and that they do not intend to interfere with the editorial policy as long as it brings profit, the reality is quite different. Janez Gril, the director of Druzina publishing house, which is a co−owner of Krekova druzba, admits that there is more to it then simply making a lucrative investment. In his opinion an investment in a media company is not a capital investment only, countless other things are involved (GV, 16 December 1999). An article published in *Mag* magazine under the title *A Black Day for a Black Widow*, examines a 'political takeover' from a different perspective (22 March 2000). With DEM 3 million of annual profit *Delo*, for example, cannot qualify as an attractive investment opportunity. In fact it is quite uninteresting in terms of profit. Yet the Indemnification Fund does not as much as consider selling its 11.7% ownership stake in *Delo*, even though *Delo's* shares are several times overpriced. This leads to the conclusion that investments in the media companies are not (primarily) economically but (also) politically motivated.

Political takeovers under the pretext of lucrative business

When *Delo* published the news that Kmecka druzba had acquired a 25.4% share in the company and thus become the biggest individual owner, representatives of managerial circles asserted that they did not expect any essential changes. In other words, the management of *Delo* was of the opinion that the new owners would not interfere with the editorial policy. The executives of Kmecka druzba gave assurances to the same effect. However, it soon turned out that the rumors about the potential hostile takeover of the company were in fact hinting at the 'media policy carried out in the background'. The daily *Finance* for example wondered whether the coalition parties had made an agreement to leave radio and television to the left block, and the print media to the right (*Finance*, 8 December 1999). These events suggest that the apparent absence of interest on the part of the owners conceals certain political interests. After all, the new (right) government, which was in power from spring to autumn 2000, did not wait long before it made clear its view about the media. In their opinion, the media mainly supported the left political option, so the *Spring Parties* [18] were neglected. According to the words of the vice−chairman of the Social Democratic Party, in principle any government has the right to institutionalize its influence wherever possible, and the media are not exempted in this respect (*Dnevnik*, 27 June 2000). At this time information was leaked to the public that the new government had asked for the replacement of the president of DZS's[19] Board of Directors and indirectly of the editor−in−chief of the daily *Dnevnik* (*Finance*, 26 June 2000). The government later explicitly denied this information. These events made it clear that the government cannot quite effortlessly appoint (or discharge) the members of the supervising boards of *Delo* and *Dnevnik* (the vice−president of Social Democratic Party admitted this too), but it may endeavor to exert its influence via state funds. Since both funds (Pension and Indemnification funds) have ownership shares in all three Slovene dailies, and given the previously reached agreement that these shares would not be put up for sale, there existed a possibility that the influence (a political takeover) could be implemented by selling these shares to 'politically correct' companies.

Two weeks before he was released from duty in July 2000, the director of Kapitalska druzba sold 5.5% of the company's stake in *Delo*. The price was approximately SIT 700 million and the shares were sold to Cobito (a stockbroker company), Gorenje[20] , and Emona Maximarket. This is the maximum percentage of shares that may be sold without obtaining approval at the company meeting (given the political changes at the time, it is very likely that the approval could not have been obtained at all). *Delo* came under further pressures in November 2000. According to *Finance* (15 November 2000), Kapitalska druzba and Slovenska odskodninska druzba decided to sell their shares in *Delo*. Presumably the buyer was Mohorjeva druzba[21] or the 'right' wing of *Delo's* owners (Zvon 1 and 2 would have become 43% owner if they bought the shares from Kapitalska druzba and Slovenska odskodninska druzba). In a public statement the directors of both Kapitalska druzba and Slovenska odskodninska druzba later said that *Delo's* shares were not for sale for as long as the boards of directors of the two companies did not revoke their ban on the sale.

What will be the future course of development? No matter how (un)profitable investments in the Slovene print media may be, it is obvious that ownership stakes will continue to be the vehicle of exerting political influence (ownership control). Therefore whether the Mass Media Act will be respected or not depends on the fundamental issue of the control over the transparency of the media owners (and especially their associations with various political circles). The Mass Media Act of 2001 removed previous ownership restrictions and liberalized cross−ownership. The concentration trends in this area will continue in the future. The first consequence of the new law will be the legalization of the existing state of affairs. We can expect the linking of the existing radio and television programs to form a network, purchases of broadcast companies by the print media companies, and mergers of telecommunications and broadcasting companies (Mobitel expressed interest in purchasing a share in TV3).

The above events point to the fact that the issue of ownership and cross−ownership restrictions is not an economic issue only, but it affects the content as well. And in this case, the content is an independent editorial policy of a medium. The issue of political takeovers also determined the debates about new media legislation. The journalists pointed out that political takeovers could lead to a dismissal (or reshuffling to 'harmless' positions) of journalists. It is obvious that all past attempts to set up new dailies were primarily or exclusively political. On the other hand one should not overlook the fact that newspapers with a political flavor do not attract readership. Ensuring plurality of the media is certainly not the task that could be laid at the door of the state only, but the media themselves play an important role in it.

The development of the broadcast media

The course of development in the radio broadcasting area in the 1990s took an interesting turn. Certain radio stations that existed in parallel with the main national radio network, for example *Radio Student* and *Radio Glas Ljubljane*, had an important influence on the democratization of the public and played a significant role in initiating changes in the 1980s. They also had wide audience. By contrast, their response to social changes in the 1990s was not nearly so efficient (or at least not as efficient as that of the newspapers), so they lost both the audience and power of influence (something similar happened to the weekly *Mladina*).

On the other hand, *Radio Ljubljana*, later renamed *Radio Slovenia*, retained its leading position thanks to its Program One. It has the widest audience far outnumbering that of its competitors, despite the fact that within just a few years several tens of new radio stations, mostly commercial, were set up across the country (their current number is around seventy). The share of the audience of the leading commercial radio stations today hardly exceeds 5%, with the exception of rare and brief breakthroughs, for example in the period 1992−94 when *Radio Gama MM's* rating increased significantly, mostly thanks to the radical commercialization of the program − it mostly broadcast musical requests and persisted until the potential of that format was exhausted, after which its ratings fell. We should mention here that no significant foreign investments can be found in these radio stations.

The developments in the area of commercial television in the past ten years were quite different. The beginnings of the commercial television in Slovenia reach back into the year 1989 when *Kanal A*, the first independent television in ex−Yugoslavia, was introduced. But the real development of commercial television occurred only in the mid 1990s.

Commercial television arrived in Slovenia with a ten year delay in comparison with other countries in western Europe. Its launching elicited loud response and much speculation related to the setting up of the first commercial channel *Kanal A*. Things settled down during the following few years as the rather slow pace at which *Kanal A* developed convinced many that Slovenia was too small for even one commercial channel, let alone more than one. Yet the situation became intricate again towards the end of 1995 with the introduction of *POP TV* and TV3.

The basic difficulty faced by all commercial television stations in Slovenia was how to secure sufficient financial resources for the start−up. This is comparable to the problems faced by the new print media in the 1990s − all started with insufficient capital to endure through the first few years, the period in which every new medium, even if very successful, operates at a loss.

In the case of *Kanal A*, the initial capital was relatively small for the start−up of a television station − it amounted to 108 million dinars which was equal to approximately DEM 2.5 million. The coverage was limited to Ljubljana and its outskirts, and its owners did not expect that in the future *Kanal A* would be compelled to expand. The income was invested into the expanding of the transmitter network and similar projects, so at the moment *Kanal A* covers 90% of Slovenia.

The expansion of the network was needed in order to secure more advertising revenues and was prompted by the objections put forward by advertising agencies. "When we covered only Ljubljana, they said that they would advertise on our television if we covered a slightly larger region" said Vladimir Polic some years ago, when he was still the main owner of *Kanal A*, and continued to explain: "When we extended to the Dolenjska region, the objections were the same. Then we covered ·tajerska, they were still not satisfied. In the end we cover all of the country, but it is still not good enough."

The main difficulty, however, was not geographic coverage but the content, as is usual in similar cases. Having been restricted by low start−up funds, *Kanal A* was compelled to purchase programs of low quality with no potentials to attract the audience. The share of the programs made in−house was very small, the only exception having been the news program which unfortunately did not last long. Their film program did not feature any hits (not even moderately successful movies), nor any successful serial or other type of broadcast. By the mid 1990s, *Kanal A* program was radically impoverished. Morning and afternoon time was filled in by television shopping, followed by soap operas or some old serial. There was one film shown at the weekend and it was repeated the following day. The news program, which they tried to promote for some time, completely failed after Mile Verg left the company, and their own production practically came to a stop. The situation only improved after 1996 when Douglas Foulton, a representative of the foreign creditor Baring Communications Equity of London, which two years before granted a loan to *Kanal A* totaling US$ 2 million, came to Ljubljana to rehabilitate the station. He became a new executive director and the president of the board, and as a crisis manager was authorized to control every section of the operation, from finances to staff reorganization. Only through the rehabilitation project and thanks to new financial injections, *Kanal A* managed to reduce the operating loss, increase its slice of advertising cake and advertising revenues in general. At the same time, it improved its program contents and most importantly, the programs it purchased from other producers were of a better quality. Yet all of this could not save it from the takeover by a competitive media house Pro Plus (see below).

When in 1992 Slavko Splichal wrote that the development of the broadcasting industry in Eastern Europe is unlikely to happen for some years to come, he also added:

> It is more realistic to expect that in the near future East European countries will be exposed to a direct inflow of foreign media products (satellite programs, primarily in English, including pay television) and much less to the inflow of foreign capital (1992:77).

In the beginning of the 1990s it seemed that this forecast could certainly be applied to Slovenia. NetHold's Multichoice began to broadcast its FilmNet program in Slovene − the first coded pay channel in Slovene. The package of channels offered to Slovene viewers included some musical programs (MTV, MCM) and *Discovery* channel. However, the choice of movies on *FilmNet* was rather meager (there were none of the bigger hits) and since it was a pay channel, meaning that it involved additional costs, it never really succeeded in Slovenia. After three years of futile attempts to win subscribers, Multichoice moved out of Slovenia.

The combination of difficulties (modest initial capital and insufficient funds for purchasing good programs) faced by *Kanal A* was common to all commercial TV stations in Slovenia in the first half of the 1990s, including *MMTV* and *TV3*.

TV3 is located in the basement of a Church establishment in a Ljubljana suburb. The presence of the Catholic Church is not incidental − the owners of *TV3*, which is worth approximately DEM 10 million, are Church radio *Ognjisce*, the Diocese of Maribor, the Diocese of Koper, Mohorjeva Druzba, Celje (a publisher of predominantly religious titles) and the Economic Forum of Christian Democrats. In 1996 the group was joined by Mladinska knjiga, another book publisher, which acquired a few percent of the share. *TV3*, which is a third commercial television station in Slovenia, began to broadcast on Christmas Eve, and the major part of its programs − particularly in the beginning and on Saturdays and Sundays − consisted of broadcasts such as "From the Life of the Church", "Religion and Time", "Transmitted from Vatican"," Religion" and the like.

Is *TV3* a Church TV station? In a statement given in 1996 the first director of *TV3* Ivo Bevk did not agree with such definition.

> Even before we started broadcasting we were defined as Church TV. However, if you look at our programming today you will have to conclude that the share of religious broadcasts in our program is just about the same as that in a national TV program.

Did the Diocese of Koper really mortgage its property to obtain money to buy a stake in TV3? Mr Bevk diplomatically evaded a direct answer. "What methods the shareholders employed to secure financial resources − whether they mortgaged their property to get a loan − is outside my area of concern. That is a matter of their own choice." In the words of Mr Bevk the project was market−oriented.

> Focusing on a particular segment of the audience in a market of this size, no matter how large that segment may be in principle, would doom every television station to failure. We do not expect to achieve such good results in the first year as to become self−sufficient. But we think that this will happen in a few years time. And, if we want to achieve that, the choice of our programs must be acceptable to as many viewers as possible

. In other words, as Janko Tedesko, then the program director at *TV3* said: "This television must not become another Slovenec".

At that time Mr Bevk described *TV3* as television with positive attitude.

> We know that we did not choose the easiest path. If we wanted to take a shortcut, we would broadcast many movies because according to all available data this is the most widely watched

> program. Yet it is still one segment only meaning it attracts one segment of the audience only. But no viewer watches only *POP TV* or only TV3. Viewers tune into TV3, then switch to *POP TV*, then TV Slovenija, then satellite programs, depending on their mood. Personally I see these programs as being complementary and not countervailing against each other, nor do I think that one option only may be successful.

Despite their good intentions and a relatively large share of their own programs, *TV3* has had no luck either with the audience or advertisers. On and off they tried to introduce information contents and panel debates; they engaged the popular Slovene host of entertainment shows Stojan Auer and than replaced him, faced a number of financial difficulties, many last−minute rescues, but they never achieved any significant rating or advertising share. *TV3* set a goal to achieve a 20% viewing share by 1996 and a proportionately high share of advertisements. Undoubtedly, the people at *TV3* were quite ambitious from the very beginning. Their plan for the period 1995−2001 was DEM 107 million of income, starting with DEM 8 million in 1996 (instead they had a loss estimated at 1.4 million), DEM 9.8 million in 1997 and so on up to DEM 22 million in 2002. But the plans were never fulfilled. In the first year they failed to achieve the planned 20% share of viewing and an adequate proportion of advertisements, and in fact they never succeeded in doing this. The business results were always radically behind the plans.

Moreover, *TV3* was constantly oppressed by the image that weighed upon *Slovenec* and *Republika* too, that is, an impression that it was a political venture. *TV3* could not get rid of the image that it was a Catholic Church television and politically right−wing station, even though director Bevk voiced these concerns at an early stage of operation.

> It is hard to find any mass medium not oppressed by political interests trying to secure themselves promotion through that medium. The same as an economic player selling a product is interested in the mass media that reach its target audience, the media which reach a target group of some political party are interesting for that political party. The moment this television station becomes Christian−Democratic or Church television − in the narrow sense of the word − it will collapse.

The development of the commercial television in Slovenia is entirely comparable to that in Western Europe or Central and Eastern Europe. In Western Europe "commercial broadcasters devoted few resources to in−house production, relied on entertainment programming and were conspicuously more dependent upon US imports". (Humpreys, 1996:243). Or, as Sepstrup wrote before that, the private broadcast companies were not interested in their own products but they rather relied on imported contents (Sepstrup 1989, cited in Splichal, 1992:62).

It is precisely what happened in Slovenia. In addition to economic reasons (the purchased program was cheaper than own production) a part of the blame goes to the Mass Media Act of 1994, which prescribed too low a quota of own programs, that is, one−tenth of the broadcast time.

The key change in the area of commercial television was the introduction of *POP TV* in 1995. It brought with it many 'first−timers' in Slovenia. It involved the first larger foreign investment (although officially it was called loan and not investment, because only in such a way could Slovene partners retain equal shares). American corporation CME invested US$ 16 million and hence acquired a 58% share in the production company Pro Plus which is responsible for the management, production, technical operations and finances of *POP TV* and subsequently founded *TV Gajba*. Other shareholders were Slovene companies MMTV and Tele 59 but the former sold its 20% share in Pro Plus after one and a half years to CME for US$ 5 million, so CME increased its share to 78%.

Besides *POP TV* was the first television station that 'was not a television station'. The executives of Pro Plus strictly adhered to the explanation that *POP TV* was a program, a trademark, and not a television station. According to them television stations were *MMTV, Tele 59* and *TV Robin*. Initially they attempted to add to this group a Velenje station *VTV* but its manager turned down their offer. Later they managed to establish links with the Novo Mesto *Vas kanal* station which now broadcasts *24 ur*, the *POP TV*'s prime time news program. *POP TV* was set up as a network comparable to those existing in the US. The first networks were formed by integrating radio stations and only later television stations. The reason was that the owners of individual stations concluded that only rare among them had the needed funds to finance sufficiently attractive programs that could satisfy both the audience and advertisers. As Jankowski explained (Jankowski, 1995:47), the idea of networks was to create a large enough distribution system which would attract enough advertising money needed to finance a better program. These radio station networks, at the time unique to the US, were based on time−sharing agreements, according to which a part of the air time was reserved for a local program created by individual stations, and a part for the network program that was broadcast by all networked stations.

By the time Jankowski's book was published, this system was no longer unique to the US radio and television but had spread to East and Central Europe through American investments in these countries. It is interesting to note, however, that American investors have not set up any similar networks in Western Europe, where they most often pose as minority owners. The first such network in Slovenia was *POP TV* followed by *TV Gajba*. The latter was created only because Pro Plus found itself with such a large volume of programs purchased as a part of package−offer, that it remained unused.

> We concluded that Pro Plus purchased so many programs that all of them could not be broadcast on *POP TV*. [...] As for its content, the target audience is the younger generation[...] We see Gajba as a niche for younger audience, say, those who currently stick to *Kanal A*

said Branko Cakarmis, the program director of Pro Plus, in September 1997.

POP TV and *TV Gajba* channels thus introduced into Slovenia not only the first larger foreign investment (or to be more precise, foreign loan), but they were first to transpose foreign practices and models into Slovenia and became the first real competitor to the public television. In the words of Leonard M. Fertig, then the president and executive director of CME, that was one of the world's best television programs. Fertig had good reasons to be so self−confident. *POP TV* opened with smash hits such as Die Hard II, Ghost, Alien, M.A.S.H and Star Trek, followed by Back to the Future II, Home Alone, A Fish Called Wanda and Platoon. "We do not intend to pretend" said Branko Cakarmis. "We wanted to display all the luxury of our program".

POP TV was truly the first Slovene commercial program that offered real cinema and television hits, serials and series most popular at the time in the US, Great Britain and other West European countries. No wonder then that the rating of *POP TV* soon exceeded that of the *TV Slovenija's* Channel One program. Yet more importantly, *POP TV* introduced a regular daily news program, the first genuine counterbalance to the news program of RTV Slovenija. We should point out however that this is only a daily news program; *POP TV* has no other information−providing content so it cannot be compared to TV Slovenija in terms of the scope, diversity and complexity of information and contents. The *POP TV*'s news program was initially tabloid−like but this 'yellow press' character was later subdued and its news program audience can now compete with that of *TV Slovenia*.

Despite all of this, *POP TV* and *TV Gajba* more or less maintained the trends set up by other commercial televisions in Slovenia. It is true that both the local and purchased program was of a higher quality and more attractive, yet the Americanization of the program continued nevertheless. This is confirmed by the data showing that US imported program participated with 70% share in the broadcast material (with this share being as high as 79% in the first week of broadcasting). Similarly, the scope of program remained narrow and adhered to the established formulas.

"The marketisation of broadcasting, these Right−wing libertarians argued, would [...] provide a new external pluralism of channels, in the place of the old 'bureaucratically' manufactured internal pluralism" said Humpreys (1996, 161−2). Yet these hopes for automatically proceeding advantages were idealistic.

> The new broadcasters had had to lay out huge sums to set up their new services. Long after operating profitability was achieved, the original start up investment still had to be amortised. In a deregulated market, it was reasonable to expect that − for a period at least − spending on programming would feature rather low down the new operators' scale of priorities. This could easily result in a drift 'down market' that would be difficult to reverse." (Humpreys, 230).

In Slovenia the emergence of new commercial TV stations, which indeed brought external pluralism, was not automatically accompanied by internal pluralism of contents. Slovene commercial television channels still rely on an extremely narrow scope of content. In this respect they are not any different from other commercial television channels in Eastern Europe or even those in Western Europe (particularly in initial stages), which relied on

> the kind of programming that was most likely to maximise audiences and that was at the same time relatively inexpensive. Such programming typically comprised light entertainment programmes, game−shows, cheap drama series and popular 'soaps'. Repeats and US imports were particularly attractive. Actually to produce programmes was more costly than to buy them in packages, or to run repeats.

(Humpreys, 230) All of these conclusions relating to foreign television channels and their development can be applied to the Slovene commercial television too. The merger of *Kanal A* with Pro Plus i.e. *POP TV*, or rather its takeover by Pro Plus, clearly confirms this. A few days after the announcement of the merger, Pro Plus cancelled its second program Gajba. Although people from Pro Plus asserted that the takeover of *Kanal A* would lead to the reinforcement and enrichment of the program, by the end of 2000 it became obvious that *Kanal A* took on the role previously assigned to *Gajba*. In other words, it was set apart for contents that came in packages and were of a too low quality to be broadcast on *POP TV*. Virtually all of the in−house production was discontinued (save for three broadcasts), most of the employees were laid off, and they started to broadcast films and serials already seen on *POP TV* years ago. Obviously they employed practically all available methods to reduce costs and create a program as cheap as possible. The viewers of *POP TV* were in for similar cost−saving tactics with nearly all of in−house entertainment programs cut out and the share of new movies radically reduced (almost wiped out).

Looking from the perspective of economy, this approach is understandable. Why should one buy expensive films and produce expensive own programs if one knows that ostensibly 'true stories' and South American soapy sagas and telenovelas attract as much, if not more audience, and at a much lower purchase price for that matter. But from the viewers' point of view, this is a giant step backwards, in terms of the number of programs, their quality, and diversity of contents.

Public service television − struggling against commercialization

The development of the commercial television in Slovenia naturally had an impact on the operation of the public service television. In the beginning of the 1990s *TV Slovenija*, formerly TV Ljubljana, was influenced by democratic changes, new government, and announcements of great changes and purges among the journalists and editors. Similar to what happened in other post−socialist countries, although perhaps to a somewhat lesser extent, Slovene radio and television underwent 're−regulation' despite wishes to de−politicize public television.

According to the law governing radio and television, the general manager must be approved by Parliament. The RTV Council, which should be a civil society institute, was soon divided on political grounds and became a vehicle for promoting interests of political parties and changing coalitions. The politization continued with the changes in the law on radio and television through which the employees lost their right to approve the executive director and could only give their opinion. At that time many were convinced that it was a trade−off between RTV Slovenija and political circles by which RTV Slovenija secured new subscribers in exchange for the employees' say in the appointment of the executive director. New subscribers were obtained thanks to the access to the electricity payer list. All electricity payers thus automatically became television subscribers, so the number of license payers suddenly increased by several tens of thousands creating additional income for the company. The fact that *RTV Slovenija* did not have to decrease advertisement time even though commercial stations strongly lobbied for this only reinforced the conviction that the trade−off really took place. Commercial stations even sent to the government a proposal for changes in the law on radio and television requesting a prohibition of all advertising on *RTV Slovenia* on account of its obtaining additional subscribers through the electricity payer list.

The attempts of RTV Slovenija to obtain the list of cable television subscribers failed, but once it had access to the list of electricity payers it lost its significance anyway.

New revenues had great importance for RTV Slovenija. By the mid 1990s its losses amounted to SIT 1.5 billion, and this figure increased each year. It was not until January 2000 that it was able to announce that the anticipated profit for 2000 was SIT 300 million.

The financial difficulties in the mid 1990s overshadowed development plans. The document entitled The Strategy of Operation Until the End of 1996 represented an attempt to contain short−terms costs and expenditures of the institution. The document specified a 10% reduction in the staff and outsourced force, 3% reduction in salaries and 50% reduction in hired capacities and external production. Another document attempting to define a long−term strategy was 16−pages long Development Strategy of RTV Slovenija Until 2000. This calls to mind the BBC's document of May 1996 entitled "Extended Choice in the Digital Era", which outlined its vision for the next 10 years. It contained sweeping plans relating to digital television, digital sound, 24−hour news program and the like. Most of these plans were realized by the year 2000.

The RTV Slovenija's document was more modest. It outlined plans for a 24−hour program including morning and night programs, which should have been introduced by 2000 (it was not), tv shopping (it was introduced), the beginning of pay programs and specialized programs. It also stressed the need to introduce interactive broadcasts, to be present on the Internet and develop on−line services. Out of these, only presence on the Internet was realized. RTV Slovenija's key broadcasts have been available on the Internet since December 1995. In this respect Slovenia initially surpassed a number of European public television companies, but later its choice of Internet broadcasts began to lag behind, so even *POP TV*'s news program now excels. In the meanwhile TV Slovenia started to broadcast on the satellite. The plans to sell coded cards to Slovene emigrants in Europe, South and North America and Australia failed through as only a handful of these cards were sold.

The failure to fulfill development plans can be partly attributed to a new situation in which the public television in Slovenia found itself. Until the mid 1990s TV Slovenia practically had no competitor. It firmly held its leading position as regards share of viewing and even advertising time. Despite this, as mentioned above, its debt was SIT 1.5 billion. With the introduction of *POP TV*, followed by reinforced *Kanal A* and *TV Gajba*, the *TV Slovenija's* share of viewing dramatically decreased. The *POP TV* main news program's share of viewing first caught up with that of *RTV Slovenija*, and then took the lead, and the same is true of the movie program. Only entertainment and sports program of *RTV Slovenia* retained a definite advantage, both of which invariably recorded the highest share of audience including ratings on the annual basis. We should point out here that in the future sports program rating could be affected, since *POP TV* obtained exclusive right to broadcast Formula One races, Wimbledon tennis championship and the next football World Cup. The latter might prove to have a crucial impact on *POP TV*'s sports program rating. TV3, on the other hand, in cooperation with the network of local televisions, obtained exclusive right to broadcast football matches of the Italian and Spanish leagues. Even though TV Slovenia lost some of its sports program audience, its position in this segment has not significantly deteriorated, as did that of, say, *BBC*.

The fall in the share of viewing of *TV Slovenia* was followed by the fall in advertising revenues, particularly in the period after Pro Plus launched an advertising war by reducing prices and offering quantity and other discounts.

Kanal A followed the suit. These events contributed to the commercialization of the public television compared to ten years ago. Various broadcasts, films and serials are ever more frequently interrupted by advertisements and sponsored program. These mostly appear in broadcasts of a rather commercial character (shows designed after Italian and German models) and the like. In this respect Slovenia follows the patterns that emerged with the introduction of commercial televisions in Western Europe. This trend included the commercialization of public television programs, an increase in the number of American films and serials, more commercial contents and types, reduction of in−house produced fictional program, documentaries and other programs.

Nevertheless one should not overlook the fact that after the initial slip into this maelstrom of commercialization, TV Slovenia managed to break away at least in some respects. It reduced the initial Americanization trends in some segments, particularly movie program, and concentrated on the contents of European and other world productions. Serials, on the other hand, even though noticeably less and less of American origin, are still very commercial and the most obvious examples are European soap operas. On the other hand it has been possible to observe some endeavors towards creating complementary programs instead of former competitive trends. Such an orientation is supported by most theoreticians who were recently joined by the directors of public television companies.

Conclusion

The course of development described in this essay suggests that the changes of the 1990s were deeper than meet the eye of a superficial observer. These changes were both political and economic and they were deeply interconnected, if not indivisible. The regulation mechanisms were abandoned but the independence of the mass media owners from the state and politics was not ensured. The latter retain their (considerable) ownership share by means of funds and other methods thus preserving the political influence. This sustains an anomaly in the media sector that has long since been eliminated in western democratic societies, namely the state being a direct or indirect owner or co−owner (an important one) of the mass media. As long as such situation is in place, the Slovene media will not be truly free, not politically at the least. One could say that the Slovene mass media experienced complete liberalization yet only with regard to contents and sanctions. In terms of ownership they are far from being liberalized.

Furthermore, these changes confirm the fact that various issues of regulation, for example, restrictions on ownership and cross−ownership, are not merely economic issues but pertain to the content, which in this case, is equated with the editorial policy of a mass medium. In addition, in ensuring plurality (of both the print and electronic media) the media themselves, in addition to the state, proved to have an important role.

The political takeovers affected the debate on the proposed media law. Journalists pointed out the danger of dismissals (or reshuffling to harmless positions) of journalists in the case of political takeovers. It is obvious that all past attempts to set up new dailies in Slovenia were mainly or exclusively politically motivated, and that newspapers conceptualized as political ventures do not attract readers. The public strongly rejects such projects and an important role in this is played by historical memory − still vivid recollections of the type of the public debate one can expect if politics imposes the limits on freedom and content.

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5 In an interview given to 7D he answered thus the question of whether Novice is a by−pass company: "It is my understanding that a by−pass company is a privately owned company to which one transfers the socially−owned capital. Novice is a company with mixed owners, but we have not transferred the socially−owned capital to Novice."

6 The book value of Delo's shares was SIT 2,000 in 1997, SIT 2,500 at the end of 1997 and SIT 3,600 at the end of 1998.

7 On 15 February 2001 Finance became the sixth Slovene daily (until that day the paper was published three times a week)

8 WAZ is a one−half owner of the biggest media company in Croatia Europa Press Holding, owned by Nino Paviç.

9 n its printing house in Graz Leykam prints Kronen Zeitung for Styria and Carynthia regions, and some other newspapers and magazines. Other Slovene media printed at Leykam are Druzina weekly and Ognjisce magazine.

10 Ownership structure of DZS d.d.: Infond Zlat d.d. 17.99%, Slovenska odskodninska druzba

7,36%, Nika PID d.d. 7,10%, Triglav Steber 1 Pid d.d. 6,30%, Kapitalska druzba d.d. 5,73%, Pomursko investicijska druzba 1 d.d. 4,84 % others 50,69% (Business Report by DZS 24 April 2001) DZS has shares in Zalozba Obzorja Maribor, Tehnicna zalozba and Cankarjeva zalozba (all book publishers), in Vecer, GV group, Dnevnik, Primorske novice (newspaper publishers) and Delo prodaja (Delo's Sales), and in three radio stations (*Radio Morje*, *Radio Brezice* in *Radio Sevnica*). According to the DZS annual business report, their investment activities in 2000 culminated in providing additional long−term capital through the issuing of bonds to finance the purchase of 15 % of PID Infond Zlat d.d. shares (or, rather, to acquire a 15 % share of the total PID Infond Zlat d.d. shares in 2001). At the beginning of May it became obvious that the buyer was Infond Zlat, whose share thus amounted to 23%. At the end of May there was reached a "compromise between DZS and KBM Infond". At the general meeting of Infond Zlat PID there could be heard a statement that "the intention of KBM Infond to take−over DZS was just a maneuvre intended to prevent DZS from obtaining the majority of votes at the meeting" (*Delo*, 25 May 2001).

11 Delo d.d. is the majority i.e. 99,76% owner of *Slovenske novice.* The remaining part (0.24%) is owned by one natural person (source *Slovenskenovice* , 17 November 2000).

12 In March 1991 Yugoslav dinars were still in use in Slovenia.

13 In Slovene language, Slovenec means 'a Slovene' (person).

14 The biggest owners of Info grafika are Joseph Kastelic (10.5%), Bojan Falez (9.5%) and Joze Bernik (8.3%). The Church's share of the capital is owned by the Roman Catholic Diocese of Koper (36.2%), Tiskovno drustvo Ognjisce (20.6%) and the Roman Catholic Diocese of Maribor (14.9%). The company is a 0.23% owner of the TV station TV3.

15 Kratko pojasnilo kdo je Janez Obreza

16 *Uradni list*, 15 May 2001, No 35, pp. 4017−4042

17 The influence may be exerted in the following ways: direct control of the majority owner (who, for example, may influence the appointment of the executives, editors, the staff employment and promotion policies etc.), the exploiting of voting rights arising from ownership share (formal or silent agreement between shareholders), financial dependence on advertisers or banks (in the form of more or less favorable loans or claims), or family, friendly or other forms of associations with the employees.

18 The expression "Spring Parties" refers to the political parties of the "Slovenian Spring", which stands for the democratization process of the late 1980s.

19 Ownership structure of DZS: KBM Infond Zlat d. d. 17,95%, Slovenska odskodninska druzba 7,36%, Nika PID d. d. 7,09%, Triglav steber PID d. d. 6,28%, Kapitalska druzba d. d. 5.73%, Pomurska investicijska druzba 1 d. d. 4,83%, Maksima 2 d. d. 4,81%, Maksima 1 d. d. 3,21%, Probanka d. d. 3,16%, Zlata moneta d. d. 2,43%, Hipotekarna banka d. d. 2,09%, Mobitel d. d., 1,92%, Luka Koper d. d. 1,83% others (source: KDD, 5. 12. 2000)

20 After the fire in Gorenje the government then in power led by the prime minister Andrej Bajuk asked Gorenje to sell its share in *Delo* if it wanted to obtain the state aid.

21 Given the fact that in 1999 the assets of Mohorjeva druzba amounted to SIT 70 millions and its capital to SIT 8 million, one cannot but wonder how they could possibly buy 6.2% of *Delo's* shares whose value amounted to SIT 600 million.

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