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**REPORT**

**ON CHALLENGES FACED BY JOURNALISTS  
IN PRESERVING THEIR EDITORIAL INDEPENDENCE  
IN A MEDIA ENVIRONMENT**

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**Challenges faced by journalists in preserving their editorial independence in a media environment characterised by *inter alia* media concentration, financial pressure on journalism, and close ties between the business and political sphere.**

## **1. Introduction**

*There can be no press freedom if journalists exist in conditions of corruption, poverty or fear.<sup>1</sup>*

A fundamental aspect of citizenship concerns the access to information regarding political and societal developments and the opportunity to hear a variety of opinions concerning these developments. The role of the media as fourth estate is to provide information, to report on events, to provide fora for debate and consideration with access to these discussions by all groups in society, and to fulfil the role of watchdog on public affairs via the process of investigative journalism. Such power also brings responsibility with regard to standards, ethics and truth. This paper will outline the context in which journalism operates, indicate challenges faced by journalists in their daily work with reference to a variety of examples throughout Europe, illustrate ways in which these challenges are being addressed, and suggest recommendations. Examples cited here are referenced to reports from a variety of international organisations, NGOs, and journalism associations.

The legislative, regulatory, economic and political context of the media environment has significant influence on the practice and output of journalism. The relationships between the media and politics, and those between the media and business tend to be rather complex. Government, politicians, authorities, organisations and companies need the media in order to publicise policies, explain policies, gain support for their parties, or (in the case of companies) to sell their products. They also need access to the media to respond to crises, scandals, business scandals or problems with products in relation to danger to consumers or the environment. The media, in turn, also needs the co-operation of these groups in order to receive information, and to write stories. As businesses, the media needs resources including capital investment and revenues such as advertising fees. In some countries they may receive subsidies, tax relief, or access to state funded facilities. However, while there may be larger, richer industries that lobby their interests or support political parties, no industry has the same ability as the media to impact upon the political process or to influence public opinion. This makes it harder for there to be a clear relationship between media interest and political powers. It makes it more difficult to regulate or impose limitations on the media and also encourages attempts to “control” the media via a variety of means.

Gandy (1982) described this as a relationship of reciprocal exchange wherein the journalist has access to reliable, usable information and the politicians have controlled access to their target audiences. The formal approach involves press conferences and press briefings where the official statement of government, ministry or political party is presented to the public. The informal processes may involve information being given to one outlet over the others (scoops), or ‘off-the-record’ information from political actors. Scoops may be provided in return for cooperation on particular issues, or holding off on particular news stories. It is natural that “rules of the game” are required in order for this relationship to function. However, it is also important that a strong and mutually respected ethical and legal framework exists to ensure the dissemination of truthful information and to guarantee journalistic independence.

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<sup>1</sup> Title of statement of the International Federation of Journalists on World Press Freedom Day 2006.

Unfortunately, there are many examples of obstacles, challenges and other methods of media control affecting journalism practice that will be outlined below. In recent decades the development of ‘spin-doctor’ tactics by political actors and the sophistication of public relations activities of both authorities and commercial companies make this process even less transparent. The relationship between media and business interests is also a complex issue, particularly as media outlets themselves tend to be business interests. Media production, in particular broadcasting and programme production, tends to be a very expensive business, requiring large capital investment. Industry, business, governments and government agencies are principally the sources of capital and advertising revenue for the media. In recent years, the media, particularly the press industry, has been confronted with an economic crisis, partly due to competition with online media, and particularly regarding advertising. Digitisation and globalisation have ensured a massive increase in market players and in platforms for the dissemination of information and entertainment. The German *FAZ* has in recent years lost between 40-50% of its advertising revenue (for jobs, cars, apartments etc.) when this revenue moved to Internet websites (Stock, 2003). Economic pressures can also impact on media freedom and the practice of journalism, an issue dealt with in more detail below under section six. Furthermore, as the media has developed and expanded with ever more transmission possibilities, the trend globally has been for an increasing focus on the entertainment aspect above that of the informational. Public service broadcasters competing with private, and the traditional press competing with so many other possibilities for a family’s media spend also succumb to the phenomenon of “dumbing down” in the media. Certain topics and issues may seem of less interest to the *consumer*, as opposed to the *citizen*, leading to a reduction in investigative journalism and coverage of political affairs.

Various legislation interpreted by the judiciary system via case law provide the official legal context for the practice of journalism. Media legislation and regulation, ideally overseen by an independent (of political interest) body, complemented by public service broadcasting laws, statutes and codes, and a functioning system of self-regulation form the basis of the framework for ethical standards and quality journalism practice.

## **2. Legislative and regulatory framework supporting journalistic practice**

### **a. The Freedom of Expression**

Central to the practice of journalism and an essential aspect of human rights for all citizens is the freedom of expression. At the international level this is protected under the following declarations, conventions, and charters:

Art. 19 of the United Nations’ *Universal Declaration on Human Rights* rules that *Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*

*The European Convention on Human Rights* states in Art. 10.1 that *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.*

The *Charter of Fundamental Rights of the European Union* states in Art. 11 that:  
 1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.* 2. *The freedom and pluralism of the media shall be respected.*

The Freedom of Expression is legally protected in most European countries, generally incorporated within national constitutions (in the case of the UK through the Human Rights Act of 1998). Many countries also have specific Acts relating to freedom of expression, or freedom of the press, or freedom of the media, (Austria, Sweden, Finland, Italy, Luxembourg), while others have additional or extended constitutional articles relating to media freedom (Belgium, Portugal, Greece, Hungary, Slovakia). Media freedom is also frequently mentioned in the context of media legislation (Estonia, Latvia, Lithuania, Poland, Slovenia) (for more detail see Kevin et al 2004). The legislation contains exemptions regarding public or national interest, which allows authorities some leeway regarding the way in which information is reported. These systems can only be judged in practice, i.e. as the result of judicial decisions and implementation. In this context the work of the European Court of Human Rights (balancing issues such as freedom of establishment and pluralism on the one hand, balancing freedom of protection and public interest with issues of privacy and national interest on the other)<sup>2</sup> has been vital in guiding the judiciary. The reality of the day-to-day pressure on journalists can be assessed with relation to information provided by media professionals and NGOs regarding their actual freedom, as detailed here.

## **b. Freedom of Information**

A system ensuring freedom to access information is necessary for the media to carry out its function as the fourth estate. Most Council of Europe member states have implemented such a freedom through legislation. For EU countries the incorporation of the EU Directive on the re-use and commercial exploitation of public sector information (2003/98/EC) is also required. The Acts include exemptions and classifications of certain documents, and most systems have an appeal and complaints mechanism. There are, however, a variety of problems concerning implementation of this freedom according to a report by Banisar (2006)<sup>3</sup>, with just a few countries receiving positive evaluations regarding their implementation of the freedom of access to information: Finland, Estonia, France and Iceland. For others problems included: a lack of public awareness and awareness/training of public officials (Albania, Armenia, Belgium, BiH, Georgia, Latvia, Moldova, Serbia, Slovakia, Sweden); a lack of regulations/implementation of regulations on procedures (Armenia, Belgium, Italy, Kosovo, Moldova).

Specific problems with the process included: the denial of requests/ failure to respond to requests without grounds (Armenia, Azerbaijan, Croatia, Czech Republic, Moldova, Montenegro, Romania, Serbia, Spain); claims by journalists that they have received false information (Armenia); the incorrect/ inconsistent classification of documents (Armenia, BiH, Kosovo, Lithuania, Romania, Spain, Sweden, Ukraine); pro-government journalists receiving preferential treatment (Azerbaijan, Russia); and a belief that request for information can damage good relations with authorities (in the Netherlands, NGOs and media professionals are of this opinion).

The administration of the process was criticised with regard to a poor appeals mechanism (Belgium, Czech Republic, Georgia, Turkey, United Kingdom); slow implementation and take-up (Croatia, Germany, Kosovo, Netherlands, Portugal, Sweden, United Kingdom); and excessive fees (in Ireland since the introduction of fees in the Amendment Act of 2003 the overall usage of the Act declined by over 50 percent and requests for non-personal information declined by 75 percent; in Germany certain agencies are planning to introduce fees; Romania); and a lack of legislation on protection of personal data (Kosovo, Montenegro, Turkey).

<sup>2</sup> The jurisprudence regarding Article 10 is examined in detail in the paper prepared by Professor Thorgeirsdóttir for the Venice Commission and will not be dealt with here.

<sup>3</sup> Banisar (2006) quotes a variety of sources who have evaluated national systems including national Commissions, Ombudsmen, The Council of Europe GRECO (Group of States Against Corruption), the OECD's Anti-Corruption Network for Transition Economies and the Open Society Justice Initiative.

In the case of the United Kingdom the former Lord Chancellor proposed reforms in November 2006 to the Freedom of Information Act on the grounds of costs, which he claimed have been driven up by the high level of requests from journalists.

*The job of the Government is not to provide page leads for the papers, but information for the citizen. Freedom of information was never considered to be, and for our part will never be considered to be, a research arm for the media.<sup>4</sup>*

These proposals proved very controversial, reflecting a lack of understanding of the media's role in informing the public, and a public consultation was carried out regarding the proposals. The Constitutional Affairs Select Committee of the Parliament has recently (July 2007) stated that the proposed reforms were "unnecessary, unpopular and undesirable".

### **c. Controlling the quality and ethics of media output**

There is generally a distinction between the regulation of broadcasting and that of the press, wherein in the case of the latter, the content and establishment of newspapers and periodicals are generally more free and less regulated. Press journalists, however, tend to be situated between two extremely different methods of control: the laws concerning defamation and libel, which in many countries remain under the criminal code; and systems of self-regulation, an internal industry oversight of activity with varying degrees of success and credibility in different countries. For broadcasting organisations, the existence of licensing criteria, and broadcasting codes (a central part of media legislation) all serve to provide a more comprehensive framework for regulating content and ethics. Added to this are certain content provisions of the European Union Television Without Frontiers Directive (and the proposed Audiovisual Media Services Directive), and the European Convention on Transfrontier Television of the Council of Europe.

#### *Self-Regulation*

A self-regulatory model is the general approach to oversight of the way in which journalists perform in relation to sourcing and reporting news. While preserving ethics, such a system is intended to reduce the extent to which individuals take the more expensive route of going to court over issues of libel, defamation or the publication of false or private information. International organisations representing journalists (International Federation of Journalists, IFJ and the European Federation of Journalists, EFJ) have codes of ethics and standards, as do the journalism unions at the national level. These codes relate to standards in accuracy, fairness, honesty, respect for privacy, and also the obligation to uphold the high standards of the profession by avoiding plagiarism, defamation or the acceptance of bribes. Many outlets also have individual editorial policies, systems for standards, codes of ethics etc. In general a system is in place where an independent body (Press Council, Ombudsman etc.) oversees the operation of self-regulation and will adjudicate between a media outlet/ journalist and the subject of a report whether that be an authority, company or individual. The success of such a self-regulatory system depends on the adherence to codes of the professionals, on the commitment and independence of the body that supervises compliance, and in many cases these systems are less than perfect.<sup>5</sup>

<sup>4</sup> Quote from the former British Lord Chancellor with regard to freedom of information in March 2007, reported in *The Independent*, available online <http://news.independent.co.uk/uk/legal/article2381051.ece>

<sup>5</sup> The practice of self-regulation is the focus of the paper prepared by Professor Thorgeirsdóttir for the Venice Commission and will not be dealt with in detail here.

### *Defamation and libel laws*

The existence of defamation and libel laws is necessary for the protection of the reputation of individuals and entities and also in ensuring truthful reporting. However, the nature and enforcement of these laws is frequently problematic. In many countries these issues remain part of the criminal or penal code rather than the civil code, implying the threat of prison sentences. Prison sentences and fines for defamation and insults to a person's dignity or religious feelings are common in Poland (RSF 2006). A recent attempt by the Romanian Parliament in 2006 to eliminate prison sentences for libel was over-ruled by the Constitutional Court (IREX 2007). While the Romanians are failing in their efforts to change this, in other countries the use of these laws has become more problematic.

*In the 1990s, the cases brought against journalists did not make it to court. Now a lot of cases have made it court, and there are a lot of sentences against journalists. There are already actual precedents that people go to jail, which is unacceptable in any civilized country.<sup>6</sup>*

According to the IREX (2007) report, in Macedonia libel is still under the criminal code, but is no longer a penal crime with threat of jail but rather of fines. However, experts claim that the real problem with regard to the law is the level of influence on the courts and corruption that affects the legal outcomes, ensuring that journalists rarely win libel cases.

### *Broadcasting codes and licensing criteria*

Media legislation creates the framework for licensing and supervision of content of broadcasting and establishes which authorities are responsible for these tasks. In most European countries independent media regulatory authorities RAs have been established to carry out this work. The remit of these authorities, the strength they have regarding sanctions, and their levels of political independence or freedom from interference varies widely.<sup>7</sup>

Broadcasting codes either form part of the media law, or are developed by the RAs based on principles outlined in the media law. In the UK for example the broadcasting code addresses issues such as: the protection of minors, issues of harm and offence, the incitement to commission of crime, religious programmes, impartiality and accuracy and undue prominence of views and opinions, the conduct of media during elections and referenda, fairness, privacy, sponsorship, advertising and product placement. National media laws generally also, as a minimum, reflect the Television Without Frontiers Directive of the EU and/or the European Convention on Transfrontier Television of the Council of Europe both of which address: advertising, sponsorship, the protection of minors and human dignity, and the right of reply.

The licensing criteria used by RAs for allocating radio and television licences have, in many cases, included issues such as journalism ethics, practice and independence.<sup>8</sup> Examples include the assurance that the licence applicants will: support the journalistic and creative independence of journalists (Cyprus); commit implementing journalistic and professional codes of conduct including the correct and unbiased presentation of information and respect for

<sup>6</sup> Quote concerning the increase in sentences for journalists in Russia from IREX (2006)

<sup>7</sup> The issue of independence of media regulatory authorities is the subject of the paper prepared by Professor Grabenwarter for the Venice Commission and will not be addressed here. Of interest also is a key-note speech of Karol Jakubovicz on this issue delivered at the 25<sup>th</sup> meeting of the European Platform of Regulatory Authorities in Prague in May 2007, available online:

[http://www.epra.org/content/english/press/papers/EPRA\\_keynote\\_KJ.pdf](http://www.epra.org/content/english/press/papers/EPRA_keynote_KJ.pdf)

<sup>8</sup> Based on data gathered by the author in 2005 for the Broadcasting Commission of Ireland in the context of the review of their Ownership and Control Policy 2005.

personal dignity and the right to privacy (Greece, Lithuania, Portugal); guarantee the independence and pluralism of opinions represented as well as honesty of the information provided in programmes providing general or political information (France); guarantee the right to party political broadcasts during electoral periods, in compliance with constitutionally and legally stipulated terms (Portugal); ensure the political neutrality of the station (Slovenia). In relation to journalism status and employment the licensing criteria in Cyprus also requires that the terms of employment of editors and other employees of the station is set by collective bargaining and collective work contract.

The strongest phase of regulation of media content with regard to 'political pluralism' and diversity of opinion, occurs during election campaigns, and is relevant to both the press and the broadcasting sectors: to ensure 'free and fair elections', ensure that candidates and parties receive an appropriate fair share of media coverage and to provide a system of 'right of reply'. The process of election campaign coverage is usually monitored by regulators or other authorities to ensure that the media carries out its duties according to the rules laid down regarding election campaigns, and the systems in place vary between countries.

The role of RAs in the protection of pluralism varies dependent on their remits and their resources for monitoring content (advertising, EU quotas, content that contravenes broadcasting codes, election coverage), with some doing systematic monitoring and others reviewing only on the basis of complaints.

### **3. Legislative and regulatory framework for the protection of media pluralism**

*'Political' pluralism is about the need, in the interests of democracy, for a range of political opinions and viewpoints to be expressed in the media. Democracy would be threatened if any single voice, with the power to propagate a single viewpoint, were to become too dominant.<sup>9</sup>*

Pluralism of the media is a two-fold concept, relating to both the diversity of ownership of media outlets (external) and also the diversity of output or content of media outlets (internal). Arguments for consolidation of the media industry apply to the potential economies of scale that a company can achieve: a large media firm may more easily be able to provide (or indeed preserve) an additional outlet; resources, material, and administration can be shared. These issues are sometimes taken into account by competition authorities in dealing with mergers and takeovers of media enterprises, when trying to strike a balance between economic benefit, and the need to preserve a competitive plural media sector. Some of these actual economic benefits, for example, the sharing of resources and sources may also cause a certain reduction in the plurality of information.

Media ownership is frequently concentrated in many European states. Legislation has often been introduced after the development of the market structure, as was the case with many of the former soviet states where capital and business arrived from the west before the arrival of democracy and legislation. The companies came from the mature markets of the west where they had already reached their boundaries of growth. The horizontal concentration of newspapers or radio stations, or local television can lead to a limit in choice regarding content and plurality of voices. Where a media organisation reaches a large proportion of the audience through its outlets, and has thus a potentially strong influence on political opinion, it becomes a player in the political process with the potential to hold politicians to ransom on particular issues not least that of media regulation. On the other hand, media concentrated in the hands of people close to political interests do not serve the function of fourth estate. Media owned by industry sectors can also lessen criticism of the private sector.

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<sup>9</sup> Doyle (2003).



At the European level, Article 10*bis* of the European Convention on Transfrontier Television states that:

*The Parties, in the spirit of co-operation and mutual assistance which underlies this Convention, shall endeavour to avoid that programme services transmitted or retransmitted by a broadcaster or any other legal or natural persons within their jurisdiction, within the meaning of Article 3, endanger media pluralism.*

Although there are no specific provisions on media pluralism in the proposed AVMS directive of the EU, there are some general references to this in the preamble such as:

*Audiovisual media services are as much cultural services as they are economic services. Their growing importance for societies, democracy – in particular by ensuring freedom of information, diversity of opinion and media pluralism – education and culture justifies the application of specific rules to these services; ....the instruments chosen by Member States should contribute to the promotion of media pluralism.*

The following sections are not intended to analyse in detail the various mechanisms for regulating media markets, but merely to provide an overview and highlight issues of concern.<sup>10</sup>

#### **a. Competition policy**

Competition policy at the national level generally tends to treat the media in the same way as other industries without noting its role as a cultural good. Notable exceptions to this include: Austria and Germany where the thresholds of turnover requiring intervention in a merger or take-over are much lower than for other industry sectors; in Austria, Germany, Ireland, Spain and the United Kingdom the Ministers responsible may request a special intervention on the grounds of pluralism, a public interest test, or the merger/acquisition may require the approval of the minister (Germany).

The European Commission Directorate General for Competition regulates mergers and anti-competitive behaviour, also in the media sector. Unlike in several Member States (as noted above), the competition approach does not distinguish the media industry as having any particular characteristics in comparison with other industries (i.e. democratic and cultural roles). The competition *acquis* is based on Article 31 (State monopolies of a commercial character), Articles 81-85 (Rules applicable to undertakings), Article 86 (public undertakings and undertakings with special or exclusive rights) and Articles 87-89 (Rules applicable to State aid) of the EC Treaty. It has been argued that decisions taken by the EC Competition in the media field have had a positive effect on pluralism in the media market. However, EU competition policy focuses mainly on the common market, the EU market (and intervention mostly dependent on EU wide thresholds), and so does not impede companies from having substantial interests (within national ownership boundaries where they exist) in the media sectors of a variety of European Union countries. While major companies offering services on a pan-European basis are somewhat controlled, the major European media companies (News International, Springer Verlag, Bertelsmann, Central European Media Enterprises, Scandinavian Broadcasting Services, Ringier Group, etc.) have been able to buy up media assets all over Europe (see Kevin et al 2004, for more detail). It is certainly difficult for the EU to, in parallel, promote strong companies in Europe to offset US and Asian competition, while at the same time working to promote democracy and pluralism.

<sup>10</sup> For a detailed analysis see the report prepared for the European Parliament (Kevin et al 2004), European Parliament (2004) or SEENPM/ Peace Institute (2004).

## **b. Media ownership legislation and licensing**

### *Media ownership restrictions*

Ownership of the press tends to be treated in a light regulatory way, mainly via competition law. There are some exceptions to this in France and Italy. Horizontal media concentration in the television sector is controlled in a variety of ways combining different ways of measuring the influence of an owner/ company on the market: by limiting ownership (capital or voting) shares (Cyprus, Latvia, Portugal, Slovenia, Hungary, Malta); by limiting market shares (audience / listeners) (Germany, Norway); by limiting capital share and licenses (Austria Greece); by limiting capital share and voting share (Slovak Republic, Spain); by limiting licenses and audience share (Czech Republic); by examining capital share, voting share and audience reach (Norway); by examining capital share, audience share, and licensing procedure (Belgium Walloon); licensing with cross media or media operator restrictions (Ireland); by examining licenses, share of system and revenue share (Italy); by examining voting rights, audience reach, capital share and license limit (France).

In several countries there are vague or no restrictions: there is a vaguely defined restriction based on dominant position in Poland; none or few restrictions in Belgium Flanders); and no restrictions at all in Denmark, Estonia, Finland, Lithuania, Luxembourg, Netherlands, Sweden, United Kingdom. In several countries, while there may be general legal statements prohibiting monopolisation of the media, or the creation of a dominant position, there are no/few provisions to limit ownership: Denmark, Finland, Lithuania, Poland, Portugal, Sweden. Hence, some of these systems are lacking in definition regarding thresholds, outside of general competition law. In many EU member states cross media ownership restrictions do not exist, for example in Spain, Belgium, Latvia, Luxembourg, Lithuania, Portugal or Sweden (for more detail see Kevin et al 2004).

Despite few restrictions on media ownership in Nordic states and the fact that the markets tend to be very concentrated, journalists and media freedom analysts insist there is no threat to media freedom in these states, and this is due partly to political and cultural traditions of debate, openness and discussion. Unfortunately their Baltic neighbours followed a similar *laissez faire* attitude with regard to regulation, but the culture of openness and media freedom was not there. Many Scandinavian media companies operate here, alongside US companies, all of which are involved in media markets throughout Eastern and South Eastern Europe, joined by German, French, Swiss and British companies. The positive and negative effects of this are outlined below (section 4).

### *Transparency of ownership*

Central to the proper implementation of such measures is the transparency of ownership, an issue addressed in a variety of ways: the disclosure of ownership structure to licensing (Austria) or government authorities (Lithuania); the notification of changes in ownership structure to media authorities (Austria, Germany, Lithuania, Norway, Poland, Slovenia); the annual publication of identity of owners and ownership structure (Austria, Luxembourg, Portugal); the publication of a statement on editorial line (Austria); the existence of a mass media register detailing owner, publisher, shareholders etc. (Slovenia); a registry for private terrestrial television (Spain); or via a review of programme output following change of ownership (UK, regarding radio). However, one of the main problems noted in many countries with regard to ownership is a lack of transparency. It is relatively easy to hide true ownership with the use of other names, subsidiaries, and holding companies. Without a clear picture of ownership, it is difficult to implement the limits outlined above.

### *Licensing of Broadcasters*

The criteria for awarding broadcasting licences in various European countries include *inter alia* several that are intended to promote pluralism of opinion. The decision-making process on applications for broadcasting licences is expected to: promote diversity of opinions/ plurality of information (Austria, France, Slovakia); avoid allowing any person, or group of persons, to have control of, or substantial interests in, an undue number of sound broadcasting services (Ireland); prevent achievement, by the applicant, of a dominant position in mass media in the given area (Ireland, Malta, Poland, Slovakia, France); examine the ability and commitment of the applicants to safeguard pluralism in their programmes and broadcasts and ensure the greatest possible access to them (Cyprus); promote the transparency of ownership (Czech Republic, Slovakia); promote multi-culturalism and services for minorities/ cultural exchange (Czech Republic, France, Ireland).<sup>11</sup>

## **4. The impact of ownership**

### **a. Media as business**

As noted in the introduction, an important source of revenue and capital for the media includes advertising revenue from business, industry and government. The IFJ (2006) noted that in the Serbian media there is a dependence on advertising revenue from big companies and the government, so if journalists report critically about business and government they often risk damaging the interests of the outlet, which can lead to them losing their jobs. A survey carried out by the OSCE (2003) with newspaper journalists from a range of countries revealed that an average of 25% of journalists believed that advertisement influenced the editorial line of their newspapers.

*Make a list of, say, five of the greatest advertisers, and then try to find critical comments on them. I am afraid that the list of critical comments would be even shorter than the list of the advertisers.*<sup>12</sup>

Large industry sectors such as shipping, oil, energy, are frequently the owners of media enterprises. A company involved in shipping, oil, and real estate publishes newspapers in Latvia. Another involved in activities including oil and petroleum products, shipping, banking, real state, media, hotels, and leisure owns TV stations in Greece. Spain, Portugal and France also have examples of large industry sectors investing in the media. The Orkla Media Group (until recently operating in media markets of Norway, Sweden, Denmark, Finland, Germany, Poland, Lithuania and Ukraine) is owned by Orkla SA, a company involved in industry, chemicals, food, and investments (Kevin et al 2004). In Turkey the banking, insurance energy, and construction sectors have media interests (Pekman 2005). It is unlikely that such rich industries enter the media sector in the interests of democracy and freedom of expression.

### **b. Media as political tool**

Media owners frequently have links to political interests, an issue with direct impact on the quality of journalism and editorial independence. One should not ignore the power that certain media moguls can wield in the western mature democracies. The role of the best-selling newspaper in the UK, *The Sun*, in election results over the years has been well documented. Party leaders and Prime Ministers alike have the required meetings with the head of News Corporation, owner of *The Sun* and *The Times*, in the run-up to election period. News

<sup>11</sup> Based on data gathered by the author in 2005 for the Broadcasting Commission of Ireland in the context of the review of their Ownership and Control Policy 2005.

<sup>12</sup> Quote from media expert in Croatia from the IREX (2007) report.

Corporation describes itself as a “diversified international media and entertainment company with operations in eight industry segments: filmed entertainment; television; cable network programming; direct broadcast satellite television; magazines and inserts; newspapers; book publishing; and other. The activities of News Corporation are conducted principally in the United States, Continental Europe, the United Kingdom, Australia, Asia and the Pacific Basin.”<sup>13</sup> News International recently added a couple of Latvian private television channels, Dow Jones, and the Internet company Myspace.com to its portfolio.

The IREX (2007) report outlines several ways in which media outlets are used as political tools: the sense of threat that journalists often feel that prevents them from “publishing news and articles not in accordance with the political preferences of media owners” (Albania); the use of media as a political tool by rich businessmen who are not interested in audience, profit and indeed quality and can recruit the best journalists because of their resources (Romania). Such investment of businessmen in the media purely for political reasons was heightened in 2006 in Russia, with a view to the up-coming elections, when a range of outlets - the private television channel REN-TV and the major national newspapers *Kommersant*, *Gazeta*, *Izvestia*, and *Komsomolskaya Pravda* – became “notably more government friendly” after they were bought out by businesses interests (such as Gazprom, the state-controlled gas monopoly) supportive of the state authorities.<sup>14</sup>

### **c. Self-censorship**

In a climate of influence on content, and fear of repercussions from political or business interests, journalists and editors frequently practice self-censorship, or avoid certain topics completely, for example in Armenia, Bosnia and Herzegovina, and Russia (IREX 2007). Such self-censorship can occur in relation to the perceived interests of the owners (Romania), or to that of business interests or advertisers. In 2006, the owner an independent daily paper in Croatia sacked eight editors as they had published an article concerning the owner’s “shady financial operations” (IREX 2007). Examples are also cited where experts feel that journalists and editors practice self-censorship in order to encourage favours or receive other benefits (Macedonia, Bosnia and Herzegovina), rather than due to fear or economic disadvantage.

### **d. Foreign ownership**

Foreign ownership of the media has developed in several ways: the direct investment/purchase of existing press and broadcasting outlets or the establishment of new media outlets in a particular territory; the establishment of broadcasters outside the country but targeted at the country; the shares of foreign channels received via transnational broadcasting. The expansion of European (and US) companies into the former soviet states largely came as a result of these companies having reached limits on their growth in their home countries due to media concentration restrictions and the stability of market shares at home.

The first example is the most commonly understood form of foreign ownership of the media and is of particular significance in the new democracies of the east. Foreign investment in the media was considered vital in the early 1990s in order to introduce capital technology and know-how into a previously state controlled sector. Media experts in these countries tend to see this development as having been both a blessing and a curse; the investment and know-how brought development and stability but, on the other hand, investment in foreign media can be considered a purely speculative act based on economics rather than any interest in enhancing the democratic systems. Most companies: German, Norwegian, American, have invested in the

<sup>13</sup> Website of news corporation: <http://www.newscorp.com/investor/index.html> Retrieved September 2007.

<sup>14</sup> Radio Free Europe/ Radio Liberty website: <http://www.rferl.org/featuresarticle/2006/11/A1608848-73AE-442E-9689-946FE4FB7094.html>. Retrieved September 2007.

media in countries right across the region and critics claim this power has prevented the development of local strong media enterprises.

*The encroachments by Western media groups have prevented or made difficult the development of independent or nationally-based media groups in these countries.<sup>15</sup>*

From the perspective of foreign companies, they have always claimed that their involvement in media outlets in the post soviet states had a positive influence on democracy as these owners based abroad had no interest in influencing the political and economic policies of the countries. They had no other financial interests in other industry sectors and no links to political parties. To an extent this is certainly true, although the development of media policies, and also the activities of these organisations within the media sector does imply some interest in certain political and economic developments.

Foreign investors certainly brought expertise, and in many cases efforts were made to ensure journalistic independence. For example, several foreign media companies who have been very active in the press sector, the Norwegian Orkla-group, the German based WAZ-Mediengruppe and the Axel Springer Verlag Group voluntarily introduced internal rules to protect their writing staff from outside pressure and to separate managerial and editorial responsibilities (OSCE, 2003). A similar system exists in the Dutch media whereby Editorial Statutes are established within media outlets with the intention of providing journalists protection from interference in content and editorial decisions. Unfortunately the economic, speculative aspect of investment does eventually win out. For example the Orkla media Group, Orkla ASA, (with newspapers, magazines, radio, television, digital media and direct marketing businesses in Norway, Sweden, Denmark, Finland, Germany, Poland, Lithuania and Ukraine) sold its media companies in 2006 to Mecom, an investment fund managed by David Montgomery, the former editor of the UK *Daily Mirror*. This company has been buying up several media groups in Europe. The European federation of journalists expressed its concerns that the standards of independent journalism may be put under pressure by the new company, with what they term more “hard-nosed” business concerns. The EFJ said it planned to seek assurances from Mecom regarding editorial independence across the group’s range of titles in nine countries in Western and Eastern Europe with regard to both the traditions of works councils and also the editorial codes, the “publishing principles” (IPI 2006). There have unfortunately in the case of other foreign companies been many accusations that staffs are not treated in the same way as the staff of the home based media outlets (see also section six below).

*The main problem for the Polish press sector is its independence. Foreign companies are trying to impose their Western management in a completely different environment. Laws protecting journalists are weak and large media groups take advantage of this. For example, foreign publishers deny the role of organisations representing journalists, set low wages and royalties, and avoid signing collective employment agreements.<sup>16</sup>*

The second approach of targeting a particular country with broadcasting services has led to many controversies in relation to content and standards, and advertising codes. In the Baltic States the broadcasting (satellite) of channels of the (UK based) Modern Times Group in 2004 owned the strongest channel in Estonia, the second strongest channel in Lithuania, and the third strongest in Latvia. While the reception of further foreign commercial broadcasting may add to the diversity of programming available, it is questionable as to whether this may enhance pluralism in the area of political opinion. In the Netherlands, the foreign owned RTL channels have almost 30% of market share, while in Sweden the channel of the Modern Times Group (UK based), TV3 has a 10% share. The SBS Broadcasting channel, Kanal 5, also targets the

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<sup>15</sup> From EFJ 2006, p7

<sup>16</sup> From EFJ 2006, p118

Swedish audience from the United Kingdom, implying a total foreign interest in the market of about 20%. Problems have arisen with regard to differences in the approach to advertising (much more strictly regulated in Sweden than the UK particularly regarding children's programming) due to the country of origin principle of the Television Without Frontiers Directive. This may be addressed under the revised EU directive, the Audiovisual Media Services directive, which allows authorities to intervene where they feel channels are trying to circumvent the country of origin principle.

Transnational broadcasting is also a significant way in which foreign owners can influence national media landscapes and advertising revenues. For many smaller countries historic and linguistic links are reflected in the media landscapes. In Ireland, UK based channels have approximately 40% of audience share, while in the press sector UK based press outlets have at least a 25% market share. Russian channels and periodicals have significant market shares in the Baltic countries. In Luxembourg where the citizens have a multi-lingual state, television channels of German and French origin have almost 42% of the audience share, with the only national channel having around 12%. In Austria, German based television channels have a market share of almost 25%. In Malta the Italian Mediaset is the third player in the market with a 13% audience share, while the Italian Public Service Broadcaster RAI has around 5%. Greek Cypriots consume Greek media, while several of the national channels are local versions of Greek TV stations. The television audience of Slovenia also views German, Austrian, Croatian and Italian television (total 22% market share). The fragmentation of the markets has growing implications for advertising revenues, and resources of local broadcasters.

## **5. The influence of authorities and political organisations**

### **a. Public service broadcasting not always independent**

There are different ways in which we can consider that the government, or the state has ownership interests in, or the possibility to exert control over, the media. While many countries have developed a form of public service broadcasting, the funding and political independence is not guaranteed. In Spain in 2004, employees of the PSB TVE, set up their own Independent Advisory Council (known as the Anti-Manipulation Council) in response to what was described as political pressure on the broadcaster from the former Government and allegations that the broadcaster was 'too close to the government', while the incoming socialist government promised to introduce certain reforms to the PSB TVE. Many PSBs have access to advertising revenue and this places them in direct competition with commercial broadcasters regarding audience rating, thus encouraging a commercialisation of content on PSBs. The status of PSBs, their remit and role within the media landscape, and also their independence, and funding needs to be ensured. In Latvia and Hungary media experts and media professionals frequently express concerns that the legislation and the implementation of laws are not strong enough to secure the status and independence of public service broadcasting (Kevin et al 2004).

### **b. State ownership and state support of media outlets**

In many COE states, large sections of the media are either owned by, or heavily subsidised by the state. This is often more significant at local level where regional administrations still finance or subsidise local media leading to journalism that simply reflects press releases of regional government, or political pressure being placed on outlets, or to self-censorship being much more prevalent at state owned and regionally subsidised media (Croatia, Bulgaria, Ukraine) (IREX 2007). In the case of Russia, in 2006 the regional authorities spent \$0.5 billion in subsidising regional and local media as regards the costs of printing, paper, office rent, and communications. Experts suggest that it is frequently the case that authorities offer subsidies to

independent media in exchange for loyalty, with some accepting and some rejecting these offers (IREX 2007).

The Russian media system is being hampered by censorship, and not just in the state controlled media. According to experts many topics are 'forbidden' such as: critical information about the president and the security services; information about opposition to the central authorities; and coverage of certain events that central authorities do not like (IREX 2007). In 2006 a new mode of setting the media agenda was observed. One could call it 'spin' but the system is rather more effective when one also controls many of the outlets. As reported by Radio Free Europe, a document was leaked with the headline "Themes for Media Reaction" for the period 11 January through 15 January and published by a Moscow newspaper on 19 January. The specific theme in this document concerned an attack on the Moscow synagogue. Aside from the substance of the response to this, which was the governments desire to crack down on anti-Semitism, the language in the document raised concerns regarding how the Kremlin hoped to structure public debate. The press report claimed that this document indicated the desire to achieve other political goals such as attacking the reputation of the opposition, increasing pressure on the media and limiting the Internet, and destroying "any thought of a possible change" of those in power. The document itself translated to state that the themes should be "the main theme in all the mass media, in the first instance on television and the leading print publications....Proposals as to the forms of materials will be worked out separately.....it is useful twice a day to give oral instructions to [these] channels on the further treatment of the theme."<sup>17</sup>

*Watergate would not be possible in Russia today unless it was approved by authorities.*<sup>18</sup>

### **c. Political ownership of the media**

The most famous and controversial example of political ownership of the media concerned the Italian case during the Berlusconi 'era'. At that time, the Italian broadcasting system involved a unique combination of economic, political and media power in the hands of one man, the former premier Minister, Silvio Berlusconi. As head of government he put pressure on the PSB RAI, a channel with an audience share of 49.5%. At the same time his own company (owned by his family's company, Fininvest) Mediaset had an audience share of 41.3%. At the time the Committee on Culture, Science and Education of the Parliamentary Assembly of the Council of Europe stressed that the fact that the Italian Government was, directly or indirectly, in control of all national television channels raised serious concerns about the plurality and independence of the media (Kevin et al 2004). Following his exit from power he was sanctioned for repeated abuse of rules on broadcasting time during the April 2006 parliamentary election campaign.

The trend continues in new EU member states. In Romania, one of the most powerful media owners in Romania is Dan Voiculescu, president of the Conservative Party. According to experts "he uses his four television stations and several publications to "sell" a good image of himself and his party" (IREX 2007). There are many examples of political ownership of the media, and interests in media business. On one level, this has emerged from the tradition of partisan press, where newspapers were aligned to particular parties (and today still exhibit political ideology preferences). Political and religious groups in Malta have ownership interests in a range of media outlets, a development that was a reaction to state controlled broadcasting and was intended to enhance pluralism. In an age where all political voices should have equal access, such investment should no longer be necessary.

<sup>17</sup> Report from Radio Free Europe/ Radio liberty. Available online:  
<http://www.rferl.org/reports/mm/2006/01/2-310106.asp> Retrieved September 2007.

<sup>18</sup> Representative of the Glasnost Defence Foundation quoted in IREX (2007).

#### **d. Political actors and authorities put pressure on the media**

There are a variety of other ways that politicians and authorities can put pressure on the media. This is carried out with both “carrot” and “stick” measures. Positive means include help with subsidies and preferential access to information in return for loyalty, as outlined above. Pressure can involve the boycotting by politicians and government officials of certain journalists and media outlets (Bosnia and Herzegovina), the firing of relatives of journalists who work in the public sector (Albania), and criminal charges not related to journalism (IREX 2007). Examples include an Armenian journalist sentenced to over three years in prison for allegedly avoiding military service by falsifying documents.

*“Reporters are often prosecuted for activities not connected with their professional activity - other felonies are being ‘discovered’ with [sic] them...”<sup>19</sup>*

Investigations and raids based on alleged tax infringements are common: the recent €12m fine on Top Media, owner of Albania's most popular TV station, considered by media freedom experts to be due to the channel's criticism of government,<sup>20</sup> and the closing down (perhaps temporarily) of an international award winning newspaper in Croatia in June 2007 after the government blocked its bank account because of an alleged unpaid VAT debt.<sup>21</sup>

#### **e. Pressure regarding protection of sources**

In many countries journalists are coming under increasing pressure to reveal sources of information. This has been a particular problem in France with an increase in searches of media offices and the homes of journalists (RSF 2006), and also in Germany where there have been several recent controversial cases of the intelligence services and police spying on the media in order to discover journalistic sources and where several journalists were prosecuted for “complicity in disclosing state secrets” (RSF 2006). This follows on from the Constitutional Court judgement of 2003 that the surveillance by authorities of journalism communications (particularly telecommunications) did not constitute a breach of constitutional liberties. Surveillance could be allowed on a case-by-case basis depending on the seriousness of a crime under investigation, balancing the freedom of the press against the efforts to fight crime (Kevin et al 2004). Two opposition parties in the German parliament, the FDP and Bündnis 90/Die Grünen, are attempting to push forward a new law to protect journalists from prosecution for “complicity in disclosing state secrets.” The International Press Institute (2006) reports other instances of phone tapping and surveillance in the Netherlands where authorities believe journalists to have obtained classified information about organised crime, and other cases of journalists going to prison after refusing to reveal sources. In Lithuania, a newspaper was raided by state security agents who confiscated the hard drives of newsroom computers. The newspapers were investigating alleged political corruption, and the Government agents claimed that the articles contained classified information. Similar events occurred in Portugal in relation to two journalists investigating a paedophilia ring, who were accused of publishing the phone numbers of public figures under investigation (IPI 2006).

<sup>19</sup> Armenian Editor-in Chief, quoted in IREX 2007.

<sup>20</sup> As reported by the South East Europe Media Organisation in July 2007, online:  
<http://www.seemo.org/content/view/66/66/>.

<sup>21</sup> As reporting by the Media Helping Media NGO, online:  
<http://www.mediahelpingmedia.org/content/view/205/198/>.



## 6. The status of journalists

### a. Professional: Journalistic integrity and expertise

The concept of editorial independence is not simply a freedom that should be given to media professionals but also is reliant upon the journalists themselves. In other words, issues such as education and self-regulation are important contributors to the development of journalism ethics. Alongside the systems intended to ensure high standards of journalism practice outlined above (under section 2.3), the issue of education and training is vital. There is an old debate regarding the virtues of journalism studies and degrees as opposed to the 'learning on the job' approach. Graduates of journalism programmes are often considered in the industry as being unprepared for the real world of reporting and that courses focus too much on the theoretical rather than the practical practice of journalism. On the other hand, courses dealing with the sociology of journalism – explaining the role of journalism in society, and those covering media ethics and laws could be considered a vital aspect of preparation for the profession. Regardless of whether journalists have university or on the job training, these two approaches should at least ensure a basic grounding in journalism ethics. Financial pressure, alongside the expansion of the media systems in the post-soviet states and the former Yugoslavia with an increasing demand for journalists, has led to a lowering of standards and expertise with these positions frequently filled by under qualified people. Respondents to the IREX (2007) research in Serbia and Montenegro claimed that experienced journalists are being laid off in favour of young journalists who are not properly qualified, because their labour is cheaper. Examples of this are given in reports in relation to many European countries.

*"In many cases the reason for poor reporting in the regions was the lack of skills and poor professional qualification. A person just does not understand that he should have asked the other side. Some journalists say that they have to fill 10 pages, and they have to do it quickly, so we were told the story and we wrote it."*<sup>22</sup>

### b. Employee status

Of major concern is the nature of employment enjoyed by many journalists. An International Federation of Journalists 2006 report (IFJ/ILO 2006) revealed worrying statistics regarding the employment status of journalists. The report was based on the result of surveys in the industry and the respondents explained how this issue impacts on journalistic integrity. The insecure situation with regard to employment can often lead to a fear of job loss, which in turn leads to "timid reporting". For example, journalists in Croatia indicated that those on short term contracts frequently focus on "lighter topics" in order to avoid conflicts. The business approach also often has a negative impact on "critical and investigative reporting". In 2004, research data (SEENPM/ Peace Institute) showed that over 50% of journalists in Bosnia and Herzegovina had no contracts with their employers. An OSCE (2003) survey of press journalists showed that those represented in a works council ranged from a high of 93% of German respondents, to 53% of Romanian journalists, and 47% of British journalists.<sup>23</sup>

As regards editorial independence, there are seldom agreements at the national or regional levels between journalist associations and media publishers, though some exist in individual media outlets. Given this lack of security there is a strong possibility for journalists to be subjected to pressure from employers and owners (SEENPM/ Peace Institute, 2004). The OSCE (2003) survey of press journalists asked whether journalists had ever been put under

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<sup>22</sup> Quote concerning Russian journalism in the regions from IREX 2007.

<sup>23</sup> The survey authors had some strange reactions to their questions on journalistic independence: while Hungarian journalists refused to answer due to insecurity or fear, the Finnish journalists refused to participate as they felt there was no problem with journalistic independence in their countries.

pressure not to write on or report on certain topics. Those claiming they had ever been put under pressure by editors were on average 25%. Regarding pressure not to publish or write on a topic coming from business or political interests 30% of UK respondents had this experience; while 54% of Romanians had this experience.

Experts claim that low salaries in Albania encourage journalists to accept bribes and produce commissioned stories (IREX 2007), and that they are unlikely to oppose the editorial policy of their media outlet when most do not have work contracts and the labour market is very mobile (SEENPM/ Peace Institute, 2004). Journalism product known as “Advertorials,” or “commercial materials,” are very common in Russia where in many regional newspapers, reporters are paid for published materials (often at higher rates than that for independent reporting). Also, the majority of graduates of journalism departments take PR jobs or jobs at the state media where salaries are somewhat higher (IREX 2007). Similarly in the Ukraine, articles composed of “non-transparent paid-for copy”, is said to be a major problem for both commercial and political reasons, due to both the “cynicism of media owners and journalists and the low professional level and poor education of most journalists” (IREX, 2007).

Such issues do not just arise in the “new” European democracies. In the OSCE report from 2003, a German union representative claimed that the economic pressures on the media are a threat to journalism. Publishers are lobbying for a relaxation of laws in order to consolidate, they are cutting back on staff and administration which impacts on quality, and they are focusing attention on East European markets where they hope for a higher return on capital than is possible in the national market (OSCE 2003). Regarding these markets, for example, in Hungary and Poland, the EFJ (2003) expresses concern regarding foreign publishers creating less favourable working conditions than in their home companies, paying low wages and hence discouraging professionalism. The IFJ (2006) reports also shows examples of full-time employees (in Denmark and Germany) being required to carry out a variety of tasks (e.g. photography and editing), implying less time for investigative journalism. Additionally, German free-lance journalists report that they are not paid adequately for investigative journalism leading frequently to the production of articles and stories of “inferior quality”.

Hence it can be concluded that the re-packaging (or sometimes direct transfer) of public relations material from business, from government and authorities, or from political interests into journalistic reports occurs for several reasons: lack of basic education regarding the fundamental role of journalism in a democratic society and lack of a grounding in ethics; poor economic circumstances and job insecurity leading to a reliance on extra income from this work; and additionally there will always be individuals who despite their awareness of the ethical considerations, and whether or not they have financial difficulties, will always be open to corrupt behaviour that furthers their own economic interests. The media outlets themselves do make efforts to control this: in Bulgaria some media outlets are attempting to curb this behaviour by introducing internal rules aimed at limiting the possibilities for receiving indirect payment (money, products etc.) for favours (IREX 2007); while several foreign media companies introduced publishing principles (editorial statutes) at their media outlets (see under 4.4 above).

It goes without saying that government, authorities and political organisations also need to adhere to rules and legislation on political communication, in particular regarding political advertising. A recent case in Germany whereby a government ministry paid an advertising agency to produce audio clips and newspaper articles for distribution to the media highlights this problem. The material was widely used and often without clear reference to the source. Major criticism was directed both at the ministry as both political advertising and “product placement” (*Schleichwerbung*) are prohibited under German law, and also at the journalists and

editors who did not adhere to high journalism standards when reproducing this material.<sup>24</sup>

### **c. Status as “citizens” and issues of safety**

A further important issue is the journalist’s status as a citizen as regards safety, physical attacks on journalists, the level of protection by authorities against attacks and public reaction to attacks. It has been noted (IREX 2007) that in many countries physical attacks on journalists and such violations are increasing and do not cause any public outrage or discussion (Armenia and Russia for example). The same IREX report quoted Romanian experts as saying:

*“The authorities do not treat journalists as citizens that need protection. The general hostility towards media is becoming the indifference of the law-enforcement officers when an individual journalist is attacked.”<sup>25</sup>*

Additionally, experts in Russia and Bulgaria claim that such crimes are not vigorously prosecuted. There are additionally many examples of violent attack on journalists conducting investigative journalism regarding corruption or organised crime, for example in Ireland, Slovenia, Sweden (Kevin et al, 2004), Bulgaria (RSF 2007), and also those involved in investigating terrorist groups, for example in Spain and Greece (Kevin et al, 2004). In a range of countries journalists enter dangerous waters when they attempt to investigate political or business corruption. An analysis from the Center for Journalism in Extreme Situations showed that all journalists murdered in Russia since the 1990s were investigating cases of corruption (IREX 2007).

## **7. Conclusions and recommendations**

*“The free and independent position of the media is never won permanently, neither is media pluralism. Efforts will always be made to exploit the media for personal or political purposes, to create media monopolies in order to raise profits, to concentrate content to what sells the best or to sweeten, change or ignore content to favour the owners, the authorities, the sources or others. The struggle to make favourable conditions for freedom of expression and information is therefore an important and never-ending story in all societies. Positive results are vital to the maintenance and development of our democracies.”<sup>26</sup>*

The legislative protection of freedoms (of expression, of the press, of access to information) is frequently undervalued by a lack of, or by poor implementation of the law. The processes and regulations related to access, to the categorisation of documents, and decisions to release information should be clear and consistent, and non-discriminatory, and should not involve excessive fees.

The freedom to carry out investigative reporting and the freedom to criticise political and economic interests should not be hampered by the abuse of libel and defamation laws. Such laws should be part of the civil rather than criminal code and the burden of proof should rest with the complainant.

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<sup>24</sup> Fragwürdige Lobbyarbeit“ (Questionable lobby work) by Kai Biermann, in *Die Zeit*, August 29, 2007, Available online: <http://www.zeit.de/online/2007/35/Reklame-Familienministerium> retrieved August 2007.

<sup>25</sup> From IREX 2007.

<sup>26</sup> Gramstad (2003).

The pressure on journalists to release details regarding sources of information, and the increasing level of surveillance being carried out on journalists and media outlets via phone-tapping and seizure of computers has been noted as particularly worrying by a range of international journalism organisations and NGOs. On World Press Freedom Day the statement of the World Association of Newspapers addressed these issues claiming that governments and state authorities should:

*“....guarantee the right of journalists to protect their confidential sources of information, as a necessary requirement for a free press.....make electronic surveillance of communications dependent on judicial authorisation, control or review, to protect the imperative independence and confidentiality of newsgathering .....abstain from prosecuting journalists who published classified information. In free societies, courts have held that it is the job of governments, not journalists, to protect official secrets, subject to the common sense decisions that editors normally make against, for instance, endangering lives.”<sup>27</sup>*

A true separation of the state from the media does not exist everywhere and this concept is central to, indeed a requirement for, the freedom of expression. Although it appears in many forms from subtle to explicit political or state ownership and control of the media, or interference in content, this is a threat to democracy and should be addressed in a common resolution or a convention from the Council of Europe.

Of great relevance to the concept of journalistic independence is the development of professionalism and ethics. Professionalism involves both the understanding of the role of journalism in society and an understanding of the process and rules of the game for fair, truthful, accurate reporting. The journalists themselves need to have a solid understanding of their own rights and responsibilities and this should be achieved by education, training and the existence of internal ethical rules. This must be supported by a strong credible self-regulatory process, overseen by an independent body.

A wide range of organisations, NGOs and journalist associations are at work trying to improve expertise, ethics, employment security and media freedom throughout Europe, gathering information, which has been cited in this paper. The work of such organisations should be supported and protected.

An insecure economic and employment status leads to a reduction in quality of journalism, to a frequent economic dependence on PR work for the very institutions, organisations and business interests that the media is supposed to critically assess, and to a fear and insecurity that undermines investigative journalism and criticism. While all media outlets are not in a position to provide secure full time employment for all journalists, the rights of association and representation, the right to a contract and reasonable pay, and the provision of internal rules on ethics and editorial independence should be guaranteed.

*Media companies should be aware of their important role in society and adopt a socially responsible policy, in line with international conventions and core labour standards. This policy should be focused on developing freedom of expression, training and improving working conditions of media professionals.”<sup>28</sup>*

<sup>27</sup> World Association of Newspapers (2007).

<sup>28</sup> Conclusions and Recommendations: *Concentration of Media Ownership and its Impact on Media Freedom and Pluralism*, Regional Conference, Bled, Slovenia, 11-12 June 2004. Available online: [http://www.mirovni-institut.si/media\\_ownership/conference/conclusions.htm](http://www.mirovni-institut.si/media_ownership/conference/conclusions.htm) Retrieved September 2007. See also SEENPM/ Peace Institute (2004).

The inclusion of criteria addressing issues of journalistic freedom and ethics, and issues of employment status, in the process of licensing of broadcasters, is a tool that is currently under-used, and could be used to further promote journalistic independence. The freedom given with a licence to broadcast should be accompanied by the responsibility to implement editorial statutes and to administer fair employment policies.

Competition law addressing mergers and take-overs in the media sector should include some form of “public interest” evaluation. Media owners should in some form be obliged to support the development of expertise, the instilling of ethics and the introduction of editorial statutes, and compelled to publish this information occasionally. In this way they can both professionalize the quality of work and defend outlets and journalists from accusations of lack of professionalism. They can also be called to account if editorial agreements are broken by exerting pressure on journalists.

The transparency of ownership is a key to the implementation of media ownership legislation and central to an understanding of the allegiances and interests of media owners. Media outlets should be obliged to register and occasionally publish the details of ownership interests.

*The up-to-date collection and public access to economic information on providers and operators (turnover, audience share, etc) are absolutely necessary. Only on the basis of appropriate data is it possible to determine if media pluralism is vibrant or endangered. Such data should be collected and used in monitoring and as the basis for regulation and controls of media concentrations.*<sup>29</sup>

Further study needs to be carried out to more clearly map the underlying weaknesses in the legal, political and economic systems that undermine media freedom. Every country has a different context of political and cultural tradition, a different experience of historical change, and also different levels of technological and economic development.

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