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**APPROPRIATE MEDIA POLICY FOR A SMALL POST-COMMUNIST STATE:
EVALUATING THE AVAILABLE MODELS FROM A BULGARIAN PERSPECTIVE**

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ABSTRACT

The objective of the project reported here is to examine the process of formation of media policy in Bulgaria in the light of the policy models exhibited by western democracies. The main premise of the study is that the specific features of the political, economic and cultural situation in Bulgaria, a small post-communist state, have to be taken in consideration when elaborating the framework of an appropriate media policy for this country.

The first chapter of the report analyses the specific features of the post-communist society which render mass media important instruments for gaining and exercising power. The central claim is that political actors in a transitional society cannot rely on many of the traditional means for achieving political goals and see the media as crucial to the implementation of their strategies. The struggle among political parties for control over the media often involves bodies and structures of the state. At the same time, civil society, the logical opponent of state and/or party domination over the media, finds itself in an immature state, fails to distinguish itself from the state and political structures and cannot mobilize forces to defend the openness and pluralism of the media sphere.

Chapters two and three focus on the processes shaping the post-communist media system in Bulgaria (with an emphasis on broadcasting) and the constellation of actors involved in it. Special attention is dedicated to the parliamentary debate on the proposed bills on radio and television. The central concepts defined and contested in this debate are discerned. The contradicting meanings attributed to concepts such as “public broadcasting institutions”, “independent public body”, “pluralism of expression” are analyzed against the background of the interests and ideologies of the different political actors. A general lack of explicit policy objectives oriented towards the democratization of the media sphere is revealed.

Chapter four offers a review of media policy models identified in communication studies and specifies some of the defining regulative measures pertaining to the different models. Particular features of the media systems of small West European countries are detected and discussed with a view to the constraints and available choices in Bulgaria. An ecological approach towards media policy-making at the level of media economy on one hand and public responsibility on the other emerges as a particularly relevant orientation. The inclusion of citizens in decision-making regarding the structure and operation of the media system through the mechanism of public hearings and consultations as practiced in Canada is seen as a means for achieving a democratic, pluralistic and socially responsive media environment.

The conclusion outlines the main elements and structure of a media policy that might correspond to Bulgarian society's needs and realities.

Introduction

After the collapse of the Berlin wall, the attention of many social scientists has been attracted by the transformations undergone by the media of the new democracies of Central and Eastern Europe and by the emergent media landscapes of these countries. A substantive number of communication studies have been devoted to delineating these recently constituted "landscapes", the new media "stages" of the different countries in the region as well as to characterizing the media systems taking shape from a theoretical point of view. These studies have captured many of the most important developments thus providing an understanding of the on-going processes and emergent structures in the media field.

The study reported here builds on much of the accumulated observations and analyses provided by communication scholars studying the media in Central and Eastern Europe while at the same time takes a normative and activist stance. The central question posed here is a political one: What is to be done and how? rather than purely analytical: What is happening and why? That is what the adjective "appropriate" stands for in the title of this project. It points to a search for "appropriate" political decisions and steps to be taken by the respective relevant political actors in the context of what is possible and desirable in one particular East European country. An admitted normative orientation that directs this search is the orientation to pluralism of opinions expressed through the media, broad civic and minority participation in public debate and media regulation, safeguarding cultural identity.

Media policy stands out as a relevant framework for such a project. Policy is traditionally seen as a "set of interrelated decisions... concerning the selection of goals and the means for achieving them within a specified situation"(Jenkins, 1978, quoted in Ham and Hill, 1993:11). Political scientists agree that policy is a dynamic process rather than a static entity. It comprises a web of decisions and actions that change over time. Therefore, studying policy implies identification of the relevant actors, their interests, logics and the relationships among them in a particular context. Thus, a focus on media policy allows the student of Central and East European media systems to gain an understanding of the subjective forces driving the development of the new media landscapes. It also allows for questions to be raised as to what alternative decisions and courses of action could have been taken or could be taken in the future to ensure a better match between the hopes and desires of citizens and the shape and performance of media systems. Besides pointing the actors most heavily involved in media policy formation and implementation, questions could be asked also as to whether there are collective actors unaware of the role they have to play on the stage of

media policy. And consequently: How could new collective actors be mobilized and involved in policy formulation and decision-making processes?

Once media policy is chosen as a framework of inquiry, it becomes clear that a lot of parallels could be drawn between institutional changes undergone not long ago by the media in Western Europe and the ongoing developments in Central and Eastern Europe. About ten years ago, in the early 80's the reigning public monopolies on radio and television broadcasting in many West European countries were subjected to serious liberalizing pressures for a first time. The growing commercial interest in broadcasting along with the introduction of new technologies like cable and satellite challenged the established broadcasting structures and made them an issue of public debate and political decision-making. The established systems of broadcasting faced the need to change and accommodate the newly emergent possibilities and the new players at the broadcasting stage. The future of the inherited state broadcasting institutions became the second major point on the agenda of media policy-makers. Simultaneously, media policy-making itself could not be contained anymore within the borders of the specialized state organizations. Many new actors such as commercial organizations, local authorities, non-profit organizations, etc. opted for participation in this process.

If we forget for a minute the dramatic circumstances under which the changes in the media of Central and Eastern Europe were initiated, we will recognize that in substance, the Eastern half of the continent had to deal with the same basic challenge: abolishing state monopoly over broadcasting and developing a dual system including both a socially responsible public broadcaster and commercially run radio and television organizations. Given the power of the internal and external forces working towards closing the political and legal gap between the two parts of Europe, it would be logical to propose that the pursued values and goals of media policy in the ex-Eastern Block countries could be expected to be almost the same as those of their western neighbours. This proposition will be later justified by the fact that most of the drafted broadcasting laws in Central and Eastern Europe included whole paragraphs drawn from European conventions on the media and were prepared in close consultation with West European experts. Even the actors driving the changes in the post-communist countries could be seen as very much the same as in Western Europe: governments, parliaments, public broadcasters, commercial organizations, etc. However, the social nature, the interests, the ideologies and subsequently the logics of these actors and the relationships between them in post-communist countries were substantially different.

In these circumstances, the question of appropriate media policy for a small post-communist state becomes a question of what is possible to achieve, by whom and through what actions with a view to media freedom, pluralism of expression, civic participation and other democratic goals now supposedly shared with the rest of Europe.

Chapter 1

The Post-Communist Context

1. Reversed Relationships

A few features of the post-communist society come to the fore as having the most critical importance for the developments in the media field. They can be conceptualized as reversed relationships from the perspective of what has been historically experienced by the states of Western Europe and North America.

• Capitalism vs. Political Pluralism

First and foremost among these is the reversed sequence: capitalism-political pluralism. While in the western industrialized countries the establishment of capitalist production and the accompanying economic relationships have been seen as preceding and conditioning the development of political pluralism and democracy, in the countries of Central and Eastern Europe political pluralism and a form of democracy were practically achieved first and capitalism had to step in later. In the analysis of Balcerowicz:

"It takes more time to privatize the bulk of the state-dominated economy than to organize free elections and at least rudiments of political parties. Given the largely simultaneous beginning of the political and economic transitions, this asymmetry in speed produces a historically new sequence: mass democracy (or at least political pluralism, i.e. some degree of legal political competition) first, and market capitalism later" (Balcerowicz, 1995:146).

• Political vs. Economic Power

Another reversed relationship is the one between economic and political power. While historically in the western societies political power has been based on wealth and the ability to put substantial economic resources to work in political campaigns, lobbying, etc. , in post-communist countries political power is an important instrument for gaining economic profit. Privatization of state property typically conducted under the supervision and with the decisive participation of governments and their departments gives these agents a crucial role in the redistribution of state resources. Another factor directly affecting economic activities and ultimately profits is the creation of new legislation in the fields of business and finances. Politicians involved in legislative work are often recruited by business interests in exchange for economic benefits such as commissions, highly paid consultative services, shares, executive positions, etc. A third prerequisite for transformation of political power into economic power is the fact that the remaining profitable state companies are managed by the respective ministries and their appointees. It is a common practice for representatives of these bodies to make decisions benefiting selected private companies.

Thus, initial accumulation of capital in post-communist economies is closely tied to the redistribution of state-owned resources and to the process of defining the rules of the economic game, and hence to the state and its agencies. Few of the mechanisms of this transformation of political power into economic one have ever been exposed because in most cases they operate on the border of legality and in the shadowy zones of missing regulation. Information about such dealings comes out into public attention in periods of change of governments or breakups between political actors and their clients. Such was the case with Bulgaria in early 1997 when the fall of the socialist government brought forth a series of revelations in the press. A year earlier, a breakup between the head of the national television and the leadership of the Bulgarian Socialist Party who had appointed him, had led to the disclosure of intensive lobbying on the part of members of parliament in favour of advertising companies.

It should be added also that the process of initial accumulation of capital and political power is the one shaping the present and future power structure of the post-communist societies. That is, the decisive struggle over positions in this structure is taking place right now and the stakes of the actors involved are high.

• **Political Parties vs. Constituencies**

While the classical pattern of emergence of political parties places the formation of constituencies with respective socio-economic profile, interests and needs at the beginning of the process, in post-communist societies parties constitute themselves most often on an idealistic basis. The idea of a party borrowed from western democracies, from the country's past or simply conceived by a small group of activists is held up first, and that is when the search for constituencies begins. Due to the initially amorphous state of the post-communist society in terms of socio-economic grouping, such "ideas of parties" do not attract supporters on the basis of economic interests or established ideologies, but rather on emotional and narrowly subjective grounds (liking/disliking of leaders, persuasiveness of rhetoric, etc.).

This specific pattern of constitution of collective identities is closely related to the performance of the media. Jakubowicz refers to this phenomenon as the "visibility effect" (Jakubowicz, 1995:43).

An "idea of a party" stands a chance to transform into a viable political entity only to the extent to which it is given "visibility" through the mass media. Moreover, in the rapid shift from non-democratic to pluralist political arrangements following the velvet revolutions, there has been no time for parties to gain support gradually through grass-root work within chosen social groups. This time-honoured mechanism has been replaced by regular appearance on the television screen, the newspaper page or in front of the radio microphone.

This is not to say that traditional or for that matter oppositional party loyalties have been of no importance. The supporters of the ex-communist parties have been one such devoted constituency, as well as the supporters of the organization which is most fiercely opposed to the ex-communists in the particular context or point in time. However, the outcome of the numerous parliamentary elections conducted in the precarious political climate of upset economies, mass protests, termination of governments, preliminary elections, etc., have been most typically decided by voters with volatile allegiances. For this latter category, the media has played a decisive role in determining political choices and voting behaviour.

Here is how this row of reversed sequences would look like if it itself is examined in a reverse order: media exposure, gaining supporters, stabilizing as a recognized political party, gaining majority in the parliament, forming a government, getting control over state economic resources and legislative activities, coming into a dominant position in the emergent structures of political and economic power.

It may be inaccurate to insist that this string describes a series of strict causal relationships and indeed media exposure has not necessarily instated the respective actors into powerful political and economic positions. Many additional factors have intervened and affected the course of a particular political formation's development and rise to success. However, against the unsettled power landscape of post-communist societies, the media have been seen by a prevailing number of political actors as the *conditio sine qua non* of coming to power. Hence, the stakes involved in the so called "media wars" waged by parliaments, presidents, governments and oppositions (see Jakubowicz, 1994; Giorgi, 1995; Paletz, Jakubowicz, Novosel, 1995); in Central and Eastern Europe have been extremely high and logically, control over the media has represented a high-priority task for the majority of the political forces, including those most committed to the freedom of speech ideal. So, if the mutually related reversed sequences outlined above do not necessarily add up to an accurate description of actual developments, they, with a reasonable approximation, reflect the logic of political actors on the stage of media policy.

Another projection of this series of reversed sequences can be found in the logic of thinking and political behaviour of journalists. To the extent that media exposure is a condition for gaining political influence, the function of newscasters ceases to be just the traditional one of informing the public about political events. Journalists become power-brokers if not politicians themselves. By reporting political life, they effectively define it even without taking sides or demonstrating an explicit bias. Although this is true under different circumstances and in different social contexts, in post-communist societies the power of journalists to select events and personalities for exposure to the public is often tantamount to the power of inspiring life into budding, would-be social formations. Equivalently strong is the wish of politicians to control closely what journalists do.

2. Civil Society and the State

Due to the authoritarian nature of the communist rule, the defining social dichotomy in Central and Eastern Europe for decades has been: the individual versus the state. Allegedly civic organizations such as cultural unions, women's committees, youth organizations and others have been thoroughly subordinated to state control. The explosive awakening of citizens to public life following the fall of the oppressive regimes resulted in myriad of civic formations and movements which aspired to enter the sphere of public debate and decision-making through open meetings, public addresses, broadcast deliberations and eventually their own publications. This participatory spirit marked the first years after the overthrow of communism but subsided rapidly once economic difficulties stepped in. Citizens were faced by a new, or at least changing, economic order in which businesses, jobs, living standards became increasingly insecure, and had to concentrate their energies on personal survival in the face of growing unemployment, inflation, crime and overall uncertainty.

In this situation, the numerous civic formations of the revolutionary period evolved in three main directions: some of them transformed into political parties and coalitions thus contributing to the statification of civil society. As Mastnak points out, this development gave support to claims to having "civil society in power". In practice, argues Mastnak, what happened was the structural deconstruction of civil society. It was "deserted, fragmented and demobilized" (Mastnak, 1991:404). Another part of the existing civic groups turned into satellites of the most influential political parties thus re-enacting the totalitarian tradition of having quasi-civic formations actually controlled and used for publicity purposes by political actors. Particularly in Bulgaria, this resulted in the proliferation of at least two copies of civic organizations with similar names and spheres of action: two women's organizations, two major trade unions, and even two Synods of the Orthodox Church, etc. In the face of these organizations, a politicized version of civil society came to existence. A third stream of civic associations was represented by groups of intellectuals integrated in international civic organizations (such as for example the Helsinki Citizens Assembly) and in many cases supported by international foundations (The Open Society Foundation, the Conrad Adenauer Foundation, etc.).

The generally questionable boundaries between state policy and civil society (see Dahlgren, 1995) were blurred beyond recognition in the formative years of the new Central and East European democracies. As argued above, political parties were emerging out of interpersonal associations and discourses, that is from the realm of civil society, and vice versa: fallen political leaders were, and still are building citizens' committees. As much as this can be seen as a chance for realization of democratic politics, it was also an obstacle for the adequate identity formation of both the state and civil society. Thus politicians perceived themselves as inevitably acting on behalf of citizens by virtue of the fact of been democratically elected and

failed to recognize the need for an on-going dialogue between state representatives and different collective interests and concerns expressed by civic groups. Civic organizations for their part aspired for direct involvement into state politics dreaming of themselves as political parties.

In Bulgaria, this latter phenomenon could be observed with every new parliamentary or presidential elections when, taking advantage of the comparatively liberal election law, numerous self-proclaimed "parties" with no followers came forth with their candidates and programs. In the latest parliamentary elections of April 1997, 39 parties and coalitions registered their candidacies. Only five of those managed to gain the four percent of the votes set as a necessary minimum for taking seats in the national parliament. The communicative aspect of this frantic electoral activity on the part of organizations of ambiguous nature is quite important. Under the election law passed immediately after the fall of communism, each party participating in the election campaign is granted free time on the National Radio and National Television for an opening and concluding address as well as 20 minutes coverage in the electoral chronicles of both national broadcast media. This free time is attracting would-be politicians as a good chance for expressing their views and concerns in front of a wide audience. Even though often carnivalesque in form and effect, these amateur quasi-political performances speak of a deep-cutting engagement with political issues typical for Bulgarians from all walks of life. However, it will probably take a long process of social transformation before this living-room style political engagement gets transformed into a self-reflective citizens' involvement.]

As Jakubowicz has pointed out, in the conditions of Central and Eastern Europe it was very important to have a "dual agency" working in favour of civil society. As the two sides of this dual agency Jakubowicz (1996), following Dahlgren (1995), sees grass root movements and a liberal democratic state. However, both these agents were weak in post-communist countries which resulted in alienation of the state and dissipation of budding civil society forms back to interactions within the narrowly private spheres of individual people. Thus, promising opportunities for an inclusive social dialogue were lost and nowadays polls register record low confidence in state institutions on the part of citizens. On the other hand, the emergent political and legislative arrangements do not aim at providing spaces for civic participation in policy-making at all levels.

Chapter 2

Bulgarian Media Policy-making

1. The Free Press Meets the Free Market

In the politically confrontational post-totalitarian years, the mass media in Bulgaria have been seen and problematized in public debate more often as a political instrument than as an object of policy-making. Political actors have grabbed all chances to play 'the media card' one against the other and have stubbornly avoided the debate on the question of what media system would promote democracy in Bulgaria and by what means such a system can be created. Media policy has thus emerged painfully out of initiatives of political players aimed at restricting their opponents from gaining disproportionate control over national radio, national television or some of the newly established private communication media.

As a result of the agreements reached at the Round Table discussions held by the communist government and the democratic opposition in 1989/90, the government took the obligation to provide financial support to the press organs of the newly established oppositional parties. Under the liberalized regime and drawing on the governmental newsprint supplies, the first oppositional newspapers were launched. The first to reach the newsstands was the publication of the re-established Bulgarian Social Democratic Party Free People (01.02.1990) and soon after it, the organ of the main anti-communist force, the coalition Union of the Democratic Forces, Democracy (12.02.1990). Press organs of numerous other smaller and bigger political parties, citizen organizations and journalistic collectives followed suit.

Along with the appearance of oppositional political press three other classes of print publications emerged within the first two-three years immediately following the fall of communism. One was represented by the old-time newspapers issued by various bodies of the former communist party as well as its satellite organizations now transformed into private publications of the journalistic staff or individual owners. The second was the new commercial general interest press backed by private and semi-private businesses, most characteristically - banks. The third stream of publications included on one hand specialized commercial newspapers and journals dealing with selected themes and appealing to selected audiences (business, arts, health, pornography, etc.) and on the other, short-lived publications of citizens groups. These three classes of print publications could be observed at both the national and the regional level.

For a short period of time the existing supplies of cheap newsprint sustained a comparatively low threshold for entering the print market. This circumstance combined with the relaxation of the state control over the press (only a business registration of the new publications was required under a 1989 Decree of the Council of Ministers regulating the activities of private firms) and the high degree of political and entrepreneurial activity of citizens produced a wide diversity of publications.

This created the belief that a plurality of channels for expressing diverse points of view and catering to different political and cultural interests could be ensured by means of the free initiative of politically and economically motivated publishers. This belief was reinforced by the pro-market ideology aggressively taking the place of central planning and regulation. It became the implicitly accepted ground for the full withdrawal of the state from regulating the press and entrusting the latter to market forces. Interestingly, such a development was ideologically resonant with the political platform of the democratic and pro-capitalist opposition, but at the same time economically more beneficial to actors related to the former communist *nomenclatura* who operated on appropriated state resources. Some analysts see consistent support of the Bulgarian Socialist Party (ex-Bulgarian Communist Party) positions in newspapers originally connected with nomenclatura-type business circles (Milev, 1993; 1994). Having in mind the developments of more recent periods, it can be argued that such newspapers have gradually left behind their political allegiances and have become representatives of the particular commercial interests that stand behind them (Bakardjieva, 1995).

Despite a heated debate around various proposals for a "press law" advanced by journalist groups and organizations, no bill concerning the press has been actually discussed by Bulgarian parliament. This has been consistent with the position of outspoken commercial newspaper publishers that the state shall not try to intervene in the newspaper market in any way. Nowadays, publishing firms are registered under the commercial law passed in 1992. Issues concerning libel and slander find regulation in the Penal Code. The penalty for slander disseminated through a publication can reach three years of imprisonment. However, no penalty is due if the truthfulness of the accusations is proved. The authorship rights of journalists fall under the protection of the Law on Authorship Rights.

An explicit refusal of the Parliament to distinguish the press and book publishing from other businesses and secure privileged conditions for their operation was demonstrated when publishers united their forces to fight for exemption of the press and Bulgarian literature from the newly introduced value-added tax of 18 per cent. Two bills proposed by deputies from both sides of the Parliament - the Socialist Party and the Union of the Democratic Forces - were voted down despite the arguments made by deputies close to the press industry that the new tax would be murderous to low-circulation periodicals and would make the press unattainable to the average Bulgarian.

This very loose, non-specialized legislation provides no measures against concentration on the press market and subsequently no guarantee for diversity of view points represented in the press. Also, journalists working in the press have no protection against dismissal in cases where their positions come in conflict

with the ones upheld by publishers. Publishers are under no obligation to publish refutations of false charges made by their newspapers.

Despite the high hopes of journalist in the years immediately following 1989 that their right to obtain information and freedom to inform the public and express positions will find some legal guarantee, no legislation regarding the press was ever discussed in the Bulgarian Parliament. This had to do with two kinds of interests opposed to press regulation: the former Communist Party and its satellite organizations as well as newly established commercial publishers. The old-regime organizations sought to take defensive measures against expected retributive legislation such as property confiscation laws. The liberalization of the print media allowed them to transfer the property of existing newspapers and magazines into private hands and in this way to make them legally independent and thus unliable to confiscation (see Kolarova and Dimitrov, 1993). Big commercial publishers, for their part, wanted to see the state retreating from the press market and leaving it to them to define and shape. These motivations coincided with the ideology of the free market advocated by the anti communist opposition, which also sought to ensure that the state imposed restrictions on the press characteristic of the communist regime would be eradicated.

This constellation of actors, interests and ideologies led to the almost complete absence of policy initiatives and actions in the field of the print media. It predetermined the triumph of market forces with all the positive and negative consequences they brought about. The free market of the press has been hailed by some analysts and identified with "a market of ideas regarding the social development" (Penev, 1996). Yet at the same time the free play of market forces can be held responsible for the predominance of periodicals affiliated with the big business in Bulgaria, the sensational and too often conflictual treatment of issues of considerable social importance. Ultimately, after a few years of acrimonious fight for sharing the press market, the two main rival press groups - 168 Hours and Media Holding - were bought by the German Westdeutsche Allgemeine Zeitung. What this will mean to the press development in Bulgaria remains to be seen. Recently, allegations have appeared in the press that this company maintains the prices of its publications artificially low , thus pushing all its local rivals out of the press market.

2. Sharing the Air: The Permanence of Temporary Statutes

Because of the formative role radio and television played in post-communist politics, their organization has been an issue of primary importance for all political actors ever since the time of the Round Table negotiations in early 1990. The main strategies pursued by the competing political parties and coalitions have been focused on: (1) how to gain strategic control over national radio and television for oneself and (2) how to block one's adversaries from gaining such control.

The central levers for political control over the broadcasting institutions have been the respective state body, authorized to supervise their operation and the heads of radio and television who, on their part, have a decisive say in human resources management within the institutions themselves. Private broadcasting stations have not been seen as a particularly important instrument for political influence due to the fact that they remained confined to the local level and took a long time to gain popularity.

The framework for policy-making in the area of broadcasting was set by the inherited situation of full communist party and government control over national and regional radio and television. Thus as a first step to achieve a fairer broadcasting order, the political forces represented at the Round Table negotiations struck the agreement to abolish governmental control over national radio and television. The governmental Committee for Radio and Television was dismantled and "two autonomous institutions of an all-nation and over-party character - Bulgarian Radio and Bulgarian Television" were established by force of a decision of the Ninth National Assembly of March 6, 1990. The clumsiness of the practically untranslatable adjectives 'all-nation' and 'over-party' is intentionally preserved here, in order to draw attention to the emerging conceptual framing of the debate over the two central broadcasting institutions of the country. The "all-nation" and "over-party" modifiers emphasize their mission to serve the nation as a whole rather than particular segments of it which has to be understood in contrast to the previously existing postulate that broadcasting should comply with "the line" and conduct the ideology of the Bulgarian Communist Party as a "leading party" for Bulgarian society. These two adjectives seek also to define a new status for radio and television, now that they are taken out of the immediate control of the executive power.

By force of the same decision the appointment of the heads of Bulgarian Radio and Bulgarian Television was entrusted to the National Assembly itself while the prime minister was authorized to propose the candidates. The legislators had obviously attempted to match the 'all-nation' and 'over-party' character of the institutions by a supervising authority of a similar mission and making. The only body of such character that had come to mind at this point in history had obviously been the parliament. Along with its logic, the fallacy of this perspective is not hard to perceive. While the National Assembly (the parliament) is indisputably a general-national establishment due to the procedural rules of its constitution, it can hardly be seen as a necessarily over-party body. On the opposite, as subsequent history has demonstrated, in the highly confrontational Bulgarian society, the Parliament became the ultimate arena for playing out partisan policies. Being hooked to it by means of supervisory prerogatives, human resources management and accountability, national radio and television were further imbued with partisanship.

Yet already at this point in time, the idea of extending the supervisory rights over broadcasting beyond the representatives of the political sphere had busied the legislators working in the then fully communist parliament. In their decision, they envisaged a parliamentary-public committee comprised of 8 members of

parliament and 7 prominent persons representing the social, economic, and cultural life of the country whose power would be to define the character and volume of the programs composing the radio and television schedules as well as the structure of these schedules as a whole. The same committee was supposed to administer the broadcasting institutions, namely to approve the structure and regulations of radio and television as well as their chairmanship. Along with the democratic intentions to expand the representativeness of this committee, a preoccupation with placing most of the crucial decision-making regarding the functioning of radio and television under its power can be discerned in the document. With all the program policy and administration related decisions entrusted to the committee not much remained of the institution's' autonomy. Thus, this provisional regulation of radio and television already bore a lot of the contradictions that would plague broadcasting policy in the years to follow.

Some of the same principles and contradictions were later reproduced in the still operational Ground Provisions for a Temporary Statute of Bulgarian Television and Bulgarian Radio adopted by the democratically elected Constitutional Assembly on December 22, 1990 (the Temporary Statute). This Act defined Bulgarian Radio and Bulgarian Television (in 1993 renamed into respectively Bulgarian National Radio and Bulgarian National Television) as "all-nation autonomous cultural institutions". Their activity was to be supervised directly by the National (at that time Constitutional) Assembly by means of the Standing Parliamentary Committee on Radio and Television. The Act also specified the responsibilities of the two institutions including "serving the interests of the people and being guided by the primary goals of the whole society", "reflecting the diversity of opinions and world views, of political, scientific and artistic perspectives in society" and "defending the Bulgarian language, the national traditions and culture and guaranteeing the national character of their programs" (Constitutional Assembly, 1991).

One notable difference between this Act and its predecessor discussed above was that in this second document the committee entitled to supervise the work of the national broadcasting institutions was a specialized parliamentary committee composed of members of parliament only. This arrangement placed the supervisory functions along with an important part of the human resources policy of radio and television in the hands of a purely political body. No inclusion of representatives of civil society was provided for.

As legal commentators have shown (see Cholakov, 1996), another major deficiency of the Act of December 1990 was that it failed to define the legal status of the institutions of radio and television. Thus, being explicitly taken out of the control of the structures of the power and declared "autonomous", they were at the same time placed under the immediate management of a different state body - the Standing Parliamentary Committee for Radio and Television. The latter was put in charge of important programming, structuring, regulative, financing and personnel-related aspects of the activities of these

institutions. Effectively, this preserved the dependency of the broadcasting organizations on the state. It does allow the parliamentary minority parties to also have a say in the management of radio and television along with the majority party, which is a positive change compared to the time of the communist regime. Yet, this mode of control was still quite remote from the ideal of "serving the society as a whole" and did not guarantee the representation of the full diversity of opinions and perspectives in society.

When the composition of the Standing Parliamentary Committee for Radio and Television is examined closely, an even more troublesome picture emerges. The committee was comprised of 23 members representing proportionally the parliamentary parties and coalitions. The chair of the Committee was a member of the parliamentary caucus of the majority party. In fact, this composition ensured that the majority party representatives would hold a majority and a decisive say in the Committee and subsequently would be able to shape all motions regarding the operation of radio and television. This wouldn't have been a big concern in a social situation with an existing general consensus as to what objective and unbiased radio and television journalism implies and how independent television and radio stations operate.

In the charged with ideological controversy and political and economic rivalry Bulgarian context where media were being perceived as instruments of party policy, the so composed Parliamentary Committee for Radio and Television institutionalized the struggle among parliamentary parties for domination in the broadcasting media at the expense of all the remaining social forces and interests. This privileged position of parliamentary parties in the discursive space was reinforced by the provision granting them up to five minutes broadcasting time upon request along with the representatives of the government, the Chair of the National Assembly and the President. The co-chairs of the Parliamentary Committee for Radio and Television were also granted broadcasting time to make statements within the sphere of their competency.

To sum up, the Temporary Statute was a product of parliamentary parties' negotiation aiming at sharing the most prominent national discursive space among each other. Behind the declarations of autonomy and "all-nation" service obligations there was a search for mechanisms allowing the major competitors for political (and economic) power to check each other's manipulative action on and through the national broadcasting media. The objective of the Statute was not media independence, rather it was leveling the ground for political players for exerting strategic influence over the public by means of radio and television. Actually, politicians on all sides probably didn't believe that media independence was possible at all in the post-communist Bulgarian context. Releasing their grip over broadcasting would have had in their view the only result of allowing their adversaries to install their own supporters in the leading positions of the broadcasting institutions. Respectively, the only comprehensible line of conduct of these political protégés would be to publicly expose the perspectives of their patrons.

Another formative document for media policy in Bulgaria was the new democratic Constitution of the state adopted on July 12, 1991. Adhering to the main principles proclaimed in international agreements such as The Universal Declaration for Human Rights, the International Civic and Political Rights and Freedoms Pact, and the European Convention on Human Rights, the Constitutional Assembly inscribed in the Constitution three provisions dealing directly with the freedom of speech and information. Article 39.1 proclaims every one's right to express opinion and to disseminate it through speech - written or spoken, through sound, image or other means. The only admissible restrictions of this right are connected with the protection of the rights and reputation of others, national security, prevention of crime and kindling feud and violence against persons (Art.39.2). Article 40.1 declares the freedom of the press and the other mass media and adds that they shall not be subjected to censorship. A print publication or other information carrier can be banned or confiscated only on the basis of a court ruling in cases when its content infringes upon morals or calls for a violent overturn of the constitutionally established order, for the commitment of crime or violence against persons (Art.40.2). According to Article 41.1 everyone has the right to seek, receive and disseminate information. The exercise of this right cannot be directed against the rights and reputation of other citizens, as well as against national security, social order, public health and morals.

The Constitution also endowed the State with sovereign rights over the radio-frequency spectrum and the geostationary positions allotted to Bulgaria by virtue of international agreements (Art.18.3).

As a result of these decisions and acts, several actors emerged as the most important ones at the stage of broadcasting policy in Bulgaria:

- **The National Assembly (the parliament)** holds (by virtue of the Temporary Statute) the power to make decisions regarding the central issues of financing, structure and personnel of national radio and television. Power of direction and control over implementation is assigned to the Standing Parliamentary Committee on Radio and Television which represents a mini-Parliament and an executive body managing the two national institutions at the same time. Later, the licensing of private radio and television stations was added to the functions of this Committee.

- **Parliamentary political parties** pursue their perceived interests and media-related objectives through their representatives in the Standing Parliamentary Committee on Radio and Television.

- **The Chairs** (since January 1993 called **directors-general**) of the national radio and television are also central figures, both objects of and players in media policy. By virtue of the fact that they are the ones who make the operative decisions in the day-to-day work of the broadcasting institutions, they

become subjected to careful political selection and scrutiny, while at the same time practically dispose of a considerable power over the functioning of the institutions (see for example Agov, 1993).

- The **Constitutional Court**, by virtue of its power to interpret the Constitution and serve as an arbiter in cases of alleged violation of constitutional principles, has also become a central actor on the media-policy scene.

- **Journalists** working in the national broadcasting institutions who have undertaken attempts to defend their perceived professional rights and interests. Journalists from other media who have carried out initiatives addressing questions of media regulation, freedom of expression, etc.

To this initial group of actors, the process of creating private broadcasting stations has added actors such as **candidates for and owners of broadcasting licenses, advertising agencies, companies** involved in broadcasting among other business activities, or in general - the new commercially motivated players. **Foreign companies** opting for shares in Bulgarian broadcasting organizations would have fallen into this group if their interest and pressure on media policy were more actively expressed in Bulgaria.

Finally, the governmental **Committee for Posts and Telecommunications** has played an important part in broadcasters' licensing being the state organ empowered to grant franchises for the usage of radio-frequencies.

Between 1991 and the present day two main streams in Bulgarian media policy, now restricted mainly to broadcasting policy, can be discerned. On one hand one can observe an on-going debate surrounding the elaboration of a broadcasting law expected to define the rules and relationships between the various agents in the field of broadcasting. Positions in this debate have been objectified in a number of bills most of which never found their way into the agenda of the respective National Assembly. Three of these provided the basis for the revised bill that the 37th National Assembly deliberated upon and finally passed as Law on Radio and Television on July 18, 1996 only to see it rejected by the Constitutional Court in some of its central provisions a few months later. Despite its failure to produce a tentative result, this debate represents the only attempt at rational media policy-making that has taken place at the level of the democratic institutions of the state.

On the other hand, observers have witnessed a disorderly process of piecemeal decision-making regarding both the national radio and television and the emergent private radio and television stations. This process has been driven by various players, often including provisional bodies (such as the Temporary Council on Radio Frequencies and Television Channels), and has been legalized by temporary documents adopted by

the Standing Parliamentary Committee for Radio and Television. Its rationale has never been openly explicated or widely discussed in the public sphere, i.e. neither in the media nor in the parliament. It may be justified to suggest that such a rationale has never existed and the development has been laid out by short term interests and transient political imbalances. No matter how covert and irrational, this process has effectively shaped the present structure of the Bulgarian broadcasting media and determined the 'established state of affairs' which has to be taken in consideration by any following legislation. The range of concrete actions constituting this stream has included changes in the structure, programming and leadership of the national radio and television, issuing broadcasting permissions to foreign radio and television stations and licensing Bulgarian, for now only local, radio and television broadcasters.

While the second stream of media quasi-policy has been well documented and discussed in academic studies (see Jordanova 1995, Milev 1993, 1994; Bakardjieva 1992, 1995; Jordanova, 1992), the first one has only started being problematized in journalistic publications and scholarly analyses (see Cholakov, 1996, Bozhilova, 1996) in the last two years after the 37th National Assembly started the discussion on the proposed bills on Radio and Television, and the Constitutional Court published a number of decisions addressing the regime of the mass media. The premise of the present study is that this publicly visible stream in media policy unfolding at the appropriate institutional level deserves specific consideration as it represents the embryonic stage of a more rational and accountable media policy-making process which, potentially, could provide for broader public participation. Thus, it holds the promise to engage the public into a rational-critical discussion on the structure and rules for operation of the mass media in Bulgaria, that is to allow this institution found by theoreticians (see Habermas, 1989; Keane, 1991; Curran, 1996) central to democracy, to be shaped and monitored in a democratic way.

The following analysis will focus on this emergent process of open and rational policy-making as it can be observed in the parliamentary discussion of the bills on radio and television and the positions expressed in this regard by other social actors whose activities would be affected by changes in the media legislation in a crucial way. The data for this analysis comprise the minutes of the discussions held by the 37th National Assembly in the period October 1995 - July 1996, decision adopted by the Constitutional Court, publications appearing in the national press, radio discussions broadcast in roughly the same period as well as interviews with representatives of different sides in the debate. Rather than following a historiographical approach, the analysis will try to delineate the main conceptual spaces and problems raised in the debate. A subsequent effort will be made to selectively examine the media-policy practices of established western democracies and other post-communist countries with the purpose to identify possible answers and solutions to uncertainties experienced by Bulgarian policy-makers. The attention will be directed to the experiences of countries that can be defined as small in terms of their media systems. However the models

exemplified by larger countries will also provide a point of reference as they have informed the media policy-making in small countries.

Chapter 3

Bills on Radio and Television: Struggles over Language and Issues

1. The Context

The context in which the legislative work on the broadcasting law of the 37th National Assembly started off in the spring of 1995 was marked by the dominance of the coalition (Parliamentary Group of the Democratic Left) headed by the Bulgarian Socialist Party (BSP). This coalition held a majority in the Parliament and was able to pass laws without seeking compromise with any other parliamentary force. Its major opponent in the Parliament was the anti-communist coalition Union of the Democratic Forces (UDF). Co- chairs of the Standing Parliamentary Committee for Radio and Television at this time were Clara Marinova, a deputy from BSP, and Evgeny Mihailov, an outspoken anti-communist politician from the UDF, both with mass media background.

The country's president at that time was the prominent dissident and original founder of the UDF, philosopher Zhelyu Zhelev, serving his second mandate at this post. Despite some history of conflict between Zhelev and the new leaders of the anti-communist coalition, the president was siding with the UDF on most of the controversial political and legislative issues. In the binary confrontational jargon of Bulgarian political thinking, it could be said that the president belonged to the UDF.

And so did the Constitutional Court. The membership of this court was elected at a time when the UDF and its ally, the Movement for Rights and Freedoms held the parliamentary majority and included some lawyers known as activists of the UDF. Thus, the Constitutional Court was seen as another powerful player that could be expected to back the parliamentary minority on the basis of shared political values and principles.

This constellation of forces in the Bulgarian political space formed the background against which the clauses of the broadcasting law were worked out, interpreted and contested.

The left coalition was making haste to prepare and pass the law as its dominant position in the Parliament would allow it to impose on future broadcasting the rules and conditions it saw as preferable. Holding the parliamentary majority and having formed the acting government, but also due to inherited taste for centralized state control characteristic of its major pillar - the BSP, this coalition tended towards legal

solutions overemphasizing the responsibilities of national broadcasting institutions vis-a-vis the state. The terms 'national' and 'society as a whole' in its jargon were often used as more 'progressive' substitutes for the idea of the state.

It is worth to have in mind also that the left coalition dominated the Standing Parliamentary Committee for Radio and Television and in practice was comfortably positioned to control the national radio and television under the provisions of the Temporary Statute. Theoretically, it could also easily allot licenses to private broadcasters of its choosing. Additionally helpful to that end would have been the fact that approvals for broadcasting licenses had to be given by the Committee for Post and Telecommunications headed by a faithful BSP chair.

Indeed, BSP had shown several examples of a heavy-handed use of its position for enforcing its nominees as directors-general of national radio, television and the Bulgarian News Agency (June, 1995). Deep-cutting structural, programming and personal changes followed these appointments. Quite unceremoniously, seven well-known journalists were fired from Bulgarian National Radio by its director-general later in the same year in the midst of a heated controversy initiated by a letter of protest against the censorship in this institution signed by 33 radio journalist. On his part, the chair of the Committee for Post and Telecommunications had dismissed the inherited members of his quota in the Temporary Council on Radio Frequencies and Television Channels to substitute them with BSP activists (June-July, 1995).

In general, the Bulgarian Socialist Party and its parliamentary coalition had good reasons to be happy with the status quo. However, it could be suggested that it was in the best long-term interest of the party to use its majority position in the parliament to pass a broadcasting law that would have corresponded to its vision for the overall broadcasting system in the country.

The Union of Democratic Forces, for its part, was in a weaker position in the Parliament and stood no chances to push through its ideas regarding the broadcasting system if they were to face the disapproval of the left coalition. It feared a development in which too much control over broadcasting would be vested in the parliamentary majority and the government, and even some of the presently available (under the Temporary Statute) mechanisms for resistance would be lost. The UDF adopted the concepts of 'public' radio and television and 'public' supervisory organs as a defense against the suspected aspirations of the majority. Its line of conduct was directed towards erecting safeguards against the intervention of the state, perceived as a totalitarian force, in the operations of the media. This line was pushed in some cases to the extreme of not recognizing inherent and democratically acceptable and necessary functions of the state in regulating broadcasting. One central problem of the post-totalitarian world view - the failure to conceptualize the state as an agency that could under certain conditions provide guarantees for democracy

and in particular, participatory political discourse through pluralistic media, drove some outspoken representatives of the UDF into unsubstantiated rhetoric and lack of constructive solutions.

The four most important points that call for examination across the three initial bills proposed respectively by deputies of the Parliamentary Group of the Democratic Left (Marinova and Nickolova), the Union of Democratic Forces (Mihailov) and two deputies of the PGDL acting on their own initiative (Avramov and Michev), include: (1) Character and constitution of the envisaged regulatory authority for radio and television; (2) Character and mission of the national broadcasting organizations that were to inherit the existing state-run radio and television; (3) Requirements set to the radio and television programs; (4) Ideas regarding the licensing of private radio and television organizations.

First, it has to be made clear that all three bills were meant to regulate not only broadcasting over the air, but generally activities and relationships related to the preparation and dissemination of radio and television programs over all kinds of technical means including cable and satellite.

All three bills converged on several general principles on which the creation and dissemination of radio and television programs should be based, closely iterating Article 40 of the Constitution regarding the freedom of the press and the other mass media. Convergence can be noticed also on the admissible restrictions of this freedom, again with a reference to the Constitution.

2. The Regulatory Authority:

All three bills conceived of the establishment of a National Council for Radio and Television with the central tasks to: (1) coordinate and control the overall activities of radio and television organizations; this control was particularly expressed in the case of the state radio and television organizations for which the National Council for Radio and Television should be authorized to appoint directors-general and make decisions regarding the programming policy; (2) issue and revoke licenses to private radio and television broadcasters and cable operators and monitor their activities.

The two drafts originating from the PGDL concurred in defining the regulatory authority as an executive, directive and controlling body in the area of radio and television programming. The Marinova & Nickolova draft actually started its definition with the attribute "independent". The formulation in the UDF (Mihailov) draft was not much different: "the National Council for Radio and Television is an independent body responsible for the implementation of the public and state policy in the area of electronic media" (Republic of Bulgaria, 1995b:3). It also stated that "in its operation the NCRT is guided by the public interest in comprehensive, reliable and free information" (Ibid.). In the later debate, this minimal difference in

wording was claimed to represent a radical disagreement between positions along the lines of how closely related the Council should be to the state.

One notable difference in the UDF's draft was the proposed two-tier structure of regulation which included a second - National Public Council along with the National Council for Radio and Television. The National Public Council would have had the function to monitor the operation of Bulgarian National Radio and Bulgarian National Television and notify the NCRT about any breaches of regulations or systematic violations on the part of the directors general of the two institutions. In the latter case, the National Public Council could suggest to the NCRT the dismissal of the implicated director. If the NCRT did not undertake the necessary measures in response to such a notification or suggestion, the National Public Council would be able to address the Parliamentary Committee for Radio and Television. As explained by the author of this draft Evgeny Mihailov in the course of the parliamentary debates, the significance of this second body was seen as lying in its ability to carry out public control over the activity of the National Council for Radio and Television, to ensure freedom of speech and to stand for the consideration of the public as opposed to the partisan or private interest in the programs of Bulgarian National Radio and Bulgarian National Television (cf. Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 103). Members of the National Public Council had to be elected by the Parliament (following a quota principle) among prominent artists, lawyers, representatives of civic movements, trade unions, the Orthodox Church, etc. (see Republic of Bulgaria, 1995c).

The proposal was quite symptomatic of the mistrust of the UDF in a strictly executive body (the NCRT), and its ambition to introduce a layer of control between the NCRT and national radio and television rooted in civil society (prominent personalities from the artistic, cultural and civic spheres). However, as the ideas on the constitution of this council showed, this was supposed to be a politically orchestrated civil society representation, where, as in the NCRT, the parliamentary parties, the government, the President and the Supreme Court would have sent their nominees.

The non-inclusion of the UDF proposed National Public Council in the revised bill prepared by the Parliamentary Committee on Radio and Television on the basis of the three initial bills and discussed by the Parliament at the second reading, proved to be a major point of confrontation. The UDF turned a blind eye to and actually negated in the debates the concurrence of ideas regarding the character and functions of the National Council for Radio and Television observable in the original drafts. It began a battle over the concept "public" insisting that the National Council for Radio and Television proposed in the compound draft should be defined as a "specialized public body" rather than as a "specialized state body" without coming up with any qualitatively different suggestions as to the powers and functions of this body (see Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 170).

Another irreconcilable contradiction emerging from the drafts was related to the mode of constitution of the NCRT. A very finely calculated balance of influence appeared to be sought by both sides in spite of their proclaimed preoccupation with the independence of the body. The revised version envisaged that the members of the board should be elected by the National Assembly on the basis of nominations made by: the National Assembly itself (seven members - four proposed by the parliamentary majority and three by the rest of the caucuses), the president (two members) and the prime minister (two members). The prolonged negotiations introduced a change in the way the parliamentary nominees were to be selected. According to the finally accepted version, the parliamentary caucuses would propose members in proportion to their representation in the parliament.

The financing of the National Council for Radio and Television, perceived as a potential lever for exerting influence over this body was also in the focus of heated debates. The UDF insisted on Mihailov's proposal that the NCRT should be financed in part through the state budget and by 3% of the advertising revenue of public radio and television (Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 187). The finally adopted version of financing envisioned that the NCRT would come up with a draft of its budget that would be included in the Financial Ministry's draft state budget and finally voted on by the Parliament. Due to the fact that the Law on Radio and Television practically never came into force, the effectiveness of this formula for securing independence could not be put to test.

However, it should be recognized that at least two reliable guarantees of the NCRT's independence were included in the law: the mandate of the NCRT was fixed at 6 years, that is two years longer than the mandate of the National Assembly and also its members could be dismissed only upon their own request or under conditions such as physical inability to fulfill their duties for more than six months and conflict with some of the qualifying requirements established by the law.

3. State or Public Radio and Television

3.1. The Definition

In relation to the definition of the status of Bulgarian National Radio and Bulgarian National Television, the 'state' versus 'public' dichotomy was once again brought to the fore. The three original bills proposed definitions of the two institutions in a characteristic way: the two bills of the Parliamentary Group of the Democratic Left referred to them as "state radio and television organizations". The UDF's bill coined the compound adjective "public-state organizations". All of these were abandoned in the revised bill in favour of the formula "public-law organizations for radio and television of a national significance". Having cleared

off the internationally embarrassing attribute "state", the legislators choose to define the status of the organization in strictly legal terms which were not the ones best suited for expressing the idea of "public service" in the sense that it has been used in the media policy documents of the Council of Europe.

The overlaying of political, legal and specifically media related frames of reference generated one more linguistically obfuscated issue for the parliamentary opponents. Mihailov argued in the parliamentary debates that the word "public-law" should be replaced by "social-law" (using the original Bulgarian word 'obshtestveni' that can be translated in English alternatively as 'social' or 'public' depending on the modified word and/or the context). He accused the majority in the Parliament that sticking to the "public-law" definition it wished to perpetuate the state character of the institutions by declaring them property of the state. (Bulgarian Constitution recognizes two forms of property: private and public.)

3.2. Financing

Immediately related to the question concerning the status of the two national media organizations was the question of financing: What would be the sources of financing of Bulgarian National Radio and Bulgarian National Television?

The three original bills stipulated almost identical sources of financing: the state budget, the organizations' own commercial activity, including advertising, and a fixed percentage of the fees charged for ownership of radio and television sets (this last item was missing from the Avramov & Michev bill). The revised bill discussed at the second reading did not mention the fees on radio and television sets as a possible source of financing. Mihailov, for his part, insisted on the structure of financing that his bill had originally proposed.

In the course of the debates during the second reading the argument focused on whether financing through the state budget would mean dependency of the two institutions upon the government. It became clear that the "subscription fees" the UDF's representatives had in mind were supposed to resemble the fees collected for the financing of the BBC and other public broadcasters in Europe, which meant they had to be higher and administered differently from the existing low, almost negligible fees charged on radio and television sets in Bulgaria. The UDF insisted that such fees paid directly by the Bulgarian public would ensure the financial independence of public radio and television. The financing of the latter through the state budget was seen as a lever in the hands of the government for exerting pressure. On the other hand, argued UDF's Blagoy Dimitrov, these organizations become economically dependent also on commercial interests such as advertisers, sponsors, independent producers by virtue of being financed through commercial revenue (Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 192).

Georgy Avramov, author of one of the PGDL's bills, for his part, believed that the opportunity given to public radio and television to create revenue and finance their operations through advertising and other commercial activities would make them "almost" independent on the state budget (Ibid.). He considered the "subscription fee" based mode of financing inapplicable in Bulgaria because of the economic crisis. The cash-stripped population, in his view, would refuse to pay an additional "tax" on radio and television. According to Avramov, the UDF's insistence on the subscription fees was partly motivated by the interests of the commercial broadcasters, who wanted to see a limitation on the volume of advertising carried by the public stations and respectively, seize a larger piece of the pie for themselves (Interview with G. Avramov, July, 1996).

The argument over the financing of the public broadcasting institutions can be interpreted in a framework broader than the one suggested by the independence issue alone. The mode of financing these institutions would bring important consequences for the overall structure of the electronic media field in the country. Limiting the volume of advertising carried by Bulgarian National Radio and Bulgarian National Television could be expected to direct financial resources to commercial broadcasters and boost their growth in terms of content and popularity. This could result in undermining the monopolistic position held by the 'state', now to be transformed into 'public' broadcasters. While the abolition of this monopoly was a long standing goal declared by the UDF (Interview with E. Mihailov, July, 1996), representatives of the Democratic Left preferred to sustain a strong and influential public broadcasting system.

Both these goals could be seen as democratically relevant and possibly, the best way to go would have been to try to negotiate a balance within the framework of a dual broadcasting system. In the specific conditions of Bulgaria where no large media businesses were threatening to choke the public radio and television, the private sector needed support from the state in no lesser extent than the public institutions. To create a viable dual system at a market poor of advertising dollars, the public institutions would need to yield some territory while retaining control over reasonable volume of resources for ensuring qualitative public service. As hard as the striking of such a balance could be, it was never clearly explicated and pursued as goal in the parliamentary debate. Instead, the political adversaries accused each other of working against the independence of the public institutions which prevented both of them to flexibly revise their position on the issue of financing.

4. Other Contested Issues

4.1. Licensing Private Broadcasters

Except for the central contradictions discussed above, the second reading debate on the bill on Radio and Television dealt with the problem of which should be the authority issuing the licenses to private broadcasters and cable operators. The recently adopted Law on Concessions (October 5, 1995) stipulated that concessions for the use of resources representing public property (including the radio frequency spectrum) had to be issued by the Council of Ministers (the government). Taking the provisions of this law in consideration, the revised bill on Radio and Television envisaged a complex mechanism of application, approval and issuing of broadcasting licenses involving the National Council for Radio and Television, the governmental Committee for Posts and Telecommunications and the Council of Ministers. These had to share the decision-making along the lines of programming on one hand and technical requirements on the other. The UDF saw this knot of intertwining responsibilities as a dangerous trap for future broadcasting candidates. It believed the decisive role that the governmental Committee for Posts and Telecommunications was entrusted with in this process could allow it to manipulate private radio and television operators. Therefore, demanded the UDF, all powers needed for issuing broadcasting and cable licenses should be given into the hands of the National Council for Radio and Television and a revision of this part of the Law on Concessions should be made (Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 168, Session 186).

Evidence provided by private radio broadcasters who had received their licenses under the temporary regulations involving the Parliamentary Committee on Radio and Television, the Temporary Council on Radio Frequencies and Television Channels and the governmental Committee for Posts and Telecommunications indicates that a mullet-player approval process like that could work in different ways depending on mutual trust and shared values and commitments among these players. In the early stages of licensing private broadcasters (1991-92), there had been good mutual understanding and collaboration between the players, and licenses have been issued in a "civilized process" (Interview with P. Punchev, July 1996; Interview with M. Nedelchev, August, 1996).

Later, due to a changed configuration of actors, ideologies and loyalties, the same mechanism had produced disconcerting difficulties for candidates, frustrating their plans and causing them financial losses (Interview with M. Minchev, July, 1996). Both Martin Minchev, director of private radio station "Express", and the former chair of the Parliamentary Committee for Radio and Television in the 36th National Assembly, Mihail Nedelchev testified that the control over the technical aspect of radio broadcasting represented a substantial source of power that could be used to subvert a media policy oriented toward diversification of forms of broadcasting. Technical requirements could create barriers or unbearable costs for private broadcasters trying to build their transmission networks. Therefore, the mechanism for awarding licenses proved to be a challenge to media policy that required careful negotiation and rational consideration of the

parts played by different actors in the light of their legitimate interests. Such a fine-tuned negotiation proved to be impossible in the confrontational atmosphere of the Bulgarian parliament in 1996.

4.2. Broadcasting Time for Parliamentary Caucuses

Another heatedly disputed issue concerned the amount of broadcasting time that Bulgarian National Radio and Bulgarian National Television should provide to the political parties and coalitions represented in the Parliament for airing their declarations. Apart from the obligation of the two institutions to grant air time to political parties during election campaigns fixed in the Law on Elections, both the UDF's and the PGDL's bills envisaged that air time had to be granted to the President, the Prime Minister, the Chair of the National Assembly, representatives of the judicial power (the latter was omitted from the UDF's bill) as well as to the parliamentary parties out of election periods at their request. In the revised bill the proposed air time available to parliamentary parties was limited to 5 minutes two times per month. The opposition felt that its opportunity to address the nation would be seriously reduced compared to the unlimited opportunity to do the same granted to the state institutions (presumably held by the majority). It insisted on having this limitation dropped off or fixing the limit at a bigger amount of time.

A radically alternative perspective was voiced by G. Avramov (PGDL) who suggested that the provision for air time granted to parties was a necessity of the revolutionary period when the opposition needed guarantees for its right to speak to the nation. A more mature democracy has the mechanisms for a pluralistic public discourse already in place and does not need to fix quotas for air time in the law thus putting at a disadvantage parties and organizations lacking parliamentary representation, argued Avramov (Republic of Bulgaria, 37th National Assembly, Session 201). Both the PGDL and the UDF, but particularly the latter, rejected the idea of perceiving Bulgaria as a mature democracy and insisted that legal guarantees of the right of the opposition to speak to the public were still necessary. The second point made by Avramov, regarding the disadvantaging of non-parliamentary parties and organizations was not addressed.

Although the dispute on this issue has validity at face value i.e. as dealing with the balance in broadcasting participation of majority and opposition respectively, it also demonstrates a preoccupation of parliamentary parties with securing their own discursive rights and opportunities and not problematizing the rights and opportunities of others.

5. Conspicuously Ignored Issues

5.1. Turkish Language Programs

The Turkish language issue: The issue of serving the needs of non-Bulgarian ethnic groups of the population surfaced in the second reading debate in relation to articles dealing respectively with the general principles of programming and the language of broadcasting. The parliamentary caucus of the Movement for Rights and Freedoms (MRF), the party of the ethnic Turks, proposed special addition stipulating an obligation of broadcasters to air Bulgarian and foreign educational and cultural programs for all age and ethnic groups (under Article 4, Ph.8, see Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 168). It also insisted on the inclusion of a special provision for distributing programs in the "mother tongues of the Bulgarian citizens for whom the Bulgarian language is not their mother tongue" (under Article 22, Ph.2; see Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 190).

This obscure phraseology marked another 'terminological' dispute in Bulgarian policy, the one of national minorities. The MRF sought a way to legalize Turkish language programs by means of this law without using the term "national minority", as the existence of such minorities is not officially recognized by the Bulgarian state. Despite the extensive quotations from the Bulgarian Constitution and some international agreements ratified by the country brought into the argument by the MRF's representative, both the parliamentary majority and its major opponent, the UDF practically ignored the demand of the MRF and voted it down. The only passing remark made by R. Nickolova, one of the authors of the PGDL's bill, stated that the distribution of Turkish language programs was left to the discretion of the National Council for Radio and Television and possible in principle (Ibid.). The incident could be seen as a reminder of the ambiguous stance of the main political organizations of the country towards questions of cultural tolerance, diversity, not to mention multiculturalism. It came also as a warning that the opening of a rational discussion on the cultural status of ethnic minorities in Bulgaria and issues of intercultural understanding including the role of the electronic media will hardly happen any time soon.

5.2. Limitation of Broadcasting Rights

In specifying the requirements to the candidates for broadcasting licenses both the PGDL's (Marinova & Nickolova) and UDF's (Mihailov) bill denied some types of organizations the right to receive licenses. Under the ban proposed by the PGDL's bill fell "political parties and movements, advertising agencies, associations controlled by foreign citizens" (Republic of Bulgaria, 37th National Assembly, 1995a:19). The UDF's bill excluded from potential broadcasters "political parties and movements, associations, syndicates, professional organizations, foundations, advertising agencies" (Republic of Bulgaria, 37th National Assembly, 1995b:10). In the revised bill discussed at the second reading the category of the banned

organizations looked as follows: "political parties, syndicates, religious organizations, advertising agencies, non-profit organizations" (Republic of Bulgaria, 1996).

During the second reading one single objection against this ban was raised by UDF's E. Kapudaliev on the basis of his personal familiarity with the aspiration of the Union of the Blind People in Bulgaria to run their own radio station serving the needs of the blind. Kapudaliev saw this provision of the law as unfairly denying the blind their legitimate need. A rejoinder to Kapudaliev's concern came from the PGDL through a counter-example suggesting that religious sects such as Jehovah Witnesses registered as non-profit organizations might also decide to apply for a broadcasting license. The PGDL' representative I. Atanassov argued that organizations occupying the border line between the civic and the political spheres as well as foundations could find a way to "exert influence over the social consciousness having the right of their own radio and television stations". Furthermore, according to the same member of Parliament, such organizations "would be able to present to society their corporate goals and interests, and in this way to hinder normal communication and the normal development of social and political pluralism" (Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 201). This latter argument was, one could assume, convincing enough to the deputies, as the ban on the enlisted organizations was adopted in its original form.

"It is an expression of totalitarian fear not to allow a particular type of people to talk", commented the legal expert with the Bulgarian Helsinki Committee, Yonko Grozev (Interview with Y. Grozev, July, 1996). Indeed, this provision showed more clearly than anything else the troubled feelings of Bulgarian politicians of all colours vis-a-vis civil society. The apprehension towards politically motivated broadcasting is easy to understand against the background of decades of a single party's ideological domination through control over the mass media. Another factor acting in the same direction was the experience of the transition period marred by interparty suspicions and constant struggles. It rendered validity to the contention that broadcasting (what all citizens can see and hear) should reconcile and unite the nation rather than fragment and emphasize the differences. How was this influential, and by no means inherently undemocratic, line of reasoning supposed to combine with universal democratic norms such as pluralism of expression? Focusing public debate on questions like that, recognizing the cultural logic of both poles of contradictions might be a way to ground abstract norms such as freedom of speech and pluralism of views into the concrete historically shaped experiences and sentiments of a particular nation at a particular moment in time. However, this could be too much to expect from a forum of vested interests and claims to power such as the parliamentary hall of a transitional society.

6. What Place for Civil Society?

The question of what role civil society should play in public broadcasting had been on the minds of all bills' authors. In the bill of the PGDL (Marinova & Nickolova) a vague allusion of civil society participation was made through the proposition advanced by Nickolova in the course of the first reading that members of the National Council for Radio and Television had to be elected among the prominent representatives of national culture, the arts, the academic sphere, etc. (Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 103).

The UDF's bill (Mihailov) suggested a second regulatory body, supervising the NCRT which was meant to represent society, as claimed by Mihailov at the first reading (Ibid.). The formula here also included "prominent representatives of national culture, science, the academic community, religious communities, syndicates, the artistic unions, women's societies and other civic organizations" (Republic of Bulgaria, 37th National Assembly, 1995b:6). It should be reminded however that deputies were supposed to elect members of the National Social Council among the representatives listed above according to a party quota principle. Thus, a civil society had to be 'interpreted' in a partisan code.

The revised bill discussed at the second reading made no gestures in direction to civil society as far as the National Council for Radio and Television was concerned. It emphasized the professional qualifications required from the members of the NCRT. While much argument occurred around the name of the regulatory body along the axis 'public versus state', the approach towards the members' recruitment was not problematized. One deputy (People Union's N. Hristov) expressed in passing a regret of the fact that the "ideal version" of this council could not be attained in this law. By ideal version he meant having the whole council recruited from the structures of civil society. But unfortunately, in his view, such structures did not exist (see Republic of Bulgaria, 37th National Assembly, Minutes of Debates, Session 170).

The only trace of civil society participation that had found its way into the revised bill could be noticed by the careful observer at the level of the Programming Councils of Bulgarian National Radio and Bulgarian National Television which had to be appointed by the National Council for Radio and Television. Two thirds of their members were supposed to be "creative people from the fields of culture, science, education and the arts, as well as representatives of different civic organizations" (Republic of Bulgaria, 37th National Assembly, 1996:21). The Programming Councils were meant to have a say regarding the general principles and directions of the programming policy of the two institutions, their programming schedules and all questions concerning programming and production. The actual management of the two institutions however had to be realized by a different body - the Management Council.

Asked about their views on whether members of the NCRT could be nominated by civil society from within its structures, the former UDF chair of the Parliamentary Committee for Radio and Television M.

Nedelchev and the acting UDF co-chair of the same committee, E. Mihailov expressed doubts that civil society, in the form that it had in Bulgaria, i.e. amorphous, politicized and internally confrontational, would be able to nominate its representatives in the National Council for Radio and Television. Mihailov referred critically to the ideas proposed by "free lance theoreticians" that the NCRT should not be elected by the Parliament. In his formula of the National Social Council, he believed, he planted the vision of civic representation in broadcasting regulation (Interview with E. Mihailov, July 1996).

It is quite difficult to sort through this contradictory set of ideas of civil society and its appropriate role in broadcasting regulation held by politicians. These ideas were however typical of the new political establishment in some other post-communist countries as well. Compare for example the statement made by Juliusz Braun, then Chairman of the Parliamentary Commission of Culture and Mass Media of Poland at a 1994 conference organized under the auspices of the Secretary-General of the Council of Europe in Warsaw. Speaking about "structures of social self-organization", he contends:

“Also, their fragmentation and small number of members do not formally entitle them to represent specific groups. Therefore,... they cannot constitute the foundation of social control over public television... Therefore, the participation of political groups in the formation of the National Council is necessary since they are the only representations of higher rank whose democratic mandate is unquestionable.” (National Broadcasting Council of Poland, 1994)

If politicians' understanding of civic representation was to be extrapolated on the future, the only possible solution seemed to be to wait till a mature civil society takes shape in Bulgaria (and the rest of Central and Eastern Europe) and then endow it with an active role in areas now securely controlled by the state, including broadcasting. However, as argued by Yonko Grozev of the Bulgarian Helsinki Committee, civil society could grow only in action and through responsibility (Interview with Y. Grozev, July 1995). A static structural view of participation as representation (Place representatives of civil society's structures in administrative seats.) destines Bulgarian society to a long waiting period before any civic influence over the affairs of the state could be exerted. It is a central contention stemming out of the analysis in this study that such a static structural view has to give way to a dynamic discursive view of civic participation and that it is a democratic state's duty to create the venues and procedures for this kind of participation.

As a post script to the Bulgarian parliamentary debate on the Law on Radio and Television it should be added that after the law was passed by the National Assembly on July 18, 1996, it was returned to the Assembly by the President on August 1. President Zhelyu Zhelev objected to some of the act's basic principles. According to the president, many provisions were inconsistent with the constitution. Some texts restricted the freedoms of expression and speech, prevented journalists from freely expressing opinions and posed the danger of censorship. The president also pointed out the National Council for Radio and

Television established by the act would be a partisan body, and that the law did not treat private and publicly owned broadcasting organizations equally.

The Parliament passed the law for a second time on September 5, 1996 without making any changes to it. Promptly after that, the opposition Union of Democratic Forces asked the Constitutional Court to void the law. On November 14, 1996 the Constitutional Court published its decision to declare provisions contained in 15 articles of the Law on Radio and Television unconstitutional. As among these articles were ones regarding the powers and composition of the National Council on Radio and Television, one of the central pillars of the new regime, the law was rendered inapplicable.

Chapter 4

The Available Models

1. The Vision and the Law: What Should Come First

“There cannot be a media law without a media policy” stated the title of a commentary published in one of the central Bulgarian dailies in April 1995. The author, the respected sociologist and policy analyst Rumen Dimitrov succinctly named the debilitating fault in the approach of Bulgarian statesmen and women to media legislation (Dimitrov, 1996). Politicians had leapt into the heat of debates dealing with details of nominations, appointments and programming principles, without having laid out and subjected to discussion their visions regarding the overall policy objectives, and the respective structure of the Bulgarian broadcasting system.

As the analysis of the content of parliamentary debate shows, certain central concepts such as pluralism, freedom of speech, public radio and television, public interest were used without being defined and often with contradictory meanings. Furthermore, it did not become clear in the course of these debates how such concepts and values were meant to relate to each other and in what way they could be translated into legal regulations. The problem of a missing policy model corresponding to the specific circumstances and needs of Bulgarian society plagued the whole process of elaboration of the Law on Radio and Television. Such a model would have provided a helpful focal point for a parliamentary as well as a broader and more inclusive public discussion of how the electronic media could be put to work towards the goals of democracy.

The present chapter sets out to examine a number of existing models of electronic media policy, mainly in relatively small European countries and Canada, with a view to offering an inventory of possible answers and solutions to the central issues that Bulgarian legislators grappled with. This examination will move

from more general conceptual frameworks towards concrete measures chosen by media policy-makers in other countries.

2. Classifications of Media Systems and Policy Models

In an early attempt to systematize different media systems, Raymond Williams distinguished among four ideal types: authoritarian, paternal, commercial and democratic systems (see Williams, 1969; Skogerbø, 1994). The authoritarian system is characterized as one in which the media are “a part of the total machine through which a minority governs a majority”. The paternal system is “an authoritarian system with a conscience: that is to say with values and purposes beyond the maintenance of its own power” (Williams, 1969:125). The commercial system draws its legitimacy from the market: “Instead of communication being for government or for guidance, it is argued that men have the right to buy anything that is offered. In this way, it is claimed, the freedom of communication is assured” (Ibid.:126).

Williams shows that the identification of market and freedom implicit in this account is flawed because the market fails to deliver products demanded by minority groups only and restricts communicative opportunities only to those who are able to raise the necessary capital. The democratic system is one that has not been fully realized in practice and thus represents only a vision. It is based on the principle that everybody has the right to transmit and receive. Restrictions on these rights can be imposed only by a decision of the majority after an open and free public discussion. The implementation of the democratic system requires substantial public funding and legislation to ensure that individual and groups are provided with a real opportunity to exercise their communicative rights.

As Skogerbø has pointed out, in his taxonomy Williams avoids the reductive characterization of media systems along the line of the dichotomy “freedom from the state versus state control” typical for classical liberal accounts. William demonstrates that this is a false dichotomy as the state inevitably plays a role in guaranteeing the existence of a free public sphere, even if only by virtue of restraining itself from intervention. Along with that, Williams draws attention to the interplay of political and economic dimensions inherent in any media system and points toward the role of public policy in providing the conditions for democratic communication. In a stylized manner Williams draws a fundamental grid that could support the rationalization of media system evaluation and choice. So the question can be asked what kind of media system post-totalitarian societies strive for and what kind of system it is possible to attain. Can elements of the paternalistic, market and democratic systems be distinguished in the visions and strategies of different social actors?

An influential classification of theoretical perspectives on the role of the media that inform social actors in their attempts to shape media systems, has been advanced by Curran (1991; 1996). Along with the traditional Marxist perspective in its two exposures - eastern (communist) and western (radical critical), Curran distinguishes two theories with practical influence on media policy making in liberal democracies. The **classical liberal theory** holds that the media are instrumental in enabling private citizens to exercise formal and informal control over the state, respectively by means of elections and public opinion. They distribute the information citizens need to make informed choices at election time and facilitate the formation of public opinion by providing an open forum for debate where diverse opinions can meet and contest each other. In their “watchdog” function, the media stand on guard for citizens overseeing the state.

The **radical-democratic theory** starts off from the premise that the media are a battleground among contending social forces. How they respond to and mediate these forces affects the outcome of the latter’s struggle and the distribution of rewards. A democratic media system should compensate for the inherent inequalities among social forces by representing all significant interests in society and allowing them to have an equitable input in the formation of public policy. Unlike traditional liberal theory which posits media as vertical channels of communication between private citizens and governments, radical democratic approach views them as “a compact articulation of vertical, horizontal and diagonal channels of communication between individuals, groups and power structures” (Curran 1991:31).

Two main approaches to organizing media roughly correspond to the theories discussed above: the free-market liberal and the collectivist-statist strategies. Both of them, argues Curran, have advantages and drawbacks and the objective of media policy should be to combine them in ways that minimize their defects and capitalize on their strengths (see Curran 1991:46-7). Curran distinguishes further four versions of the “third way”, that is of the synthesis of market and collectivist approaches. These versions represent policy models implemented in different West European countries.

The first model is the **centrally controlled market economy**. (In the following discussion I prefer to call this model “the orchestrated market model” in order to avoid associations with the central planning of the economy under “actually existing socialism”.) It is built on the principle that “the terms and the rules by which competition is conducted should be centrally determined according to the public interest” (Ibid.:48). This model is exemplified by the British television system which sustains a large public broadcaster, the BBC, which provides a basic service and sets the quality standards. The other players, including commercial organizations, local television stations, a public trust corporation, etc. are differentiated in terms of their organization and sources of revenue with a view to promoting choice (see also Scannell, 1996; Hoffman-Reim, 1996). The central objectives of this system are quality defined in terms of a

negotiation between elite norms and audience ratings, diversity, defined in terms of a mix of different types of programs, and political representation.

The second model is the **mandated market economy** represented by the Dutch broadcasting system. Its objective is to provide a broadcasting system that reflects a wide spectrum of political opinions and cultural values in a representative proportion. Traditionally, the Dutch electronic media have been organized along the lines of political and religious “pillars”. The broadcasting organizations served as communication platforms for religious and political groupings. After the introduction of the 1969 Broadcasting Act, new stations with a more general appeal were allowed to enter the system. The allocation of air time over the three channels among the total of nine public broadcasting organizations is based on the numbers of members and/or subscribers to the broadcasting magazines produced by these organizations. This system has been financed by license fees (70 per cent) and advertising (30 per cent). Recently, it has been put under serious pressure by commercial channels such as RTL-4 which seize a significant portion of the advertising revenue. In response public broadcasting organizations have shown a tendency toward adopting typically commercial styles of programming which undermines the diversity of the system as a whole (see also Brants and Slaa, 1994; Brants and McQuail, 1992).

The third model suggested by Curran bears the label **regulated market economy** and has been implemented by some Scandinavian countries, most notably Sweden and Norway. The rationale behind it is to reform the market in a way that will prevent monopolies from emerging and sustain lower barriers for market entry, that is will force market to function in practice as it is supposed to function in theory. A central instrument in this policy in the field of the press has been the Press Subsidies Board which has provided cheap loans and/or grants to low-circulation regional papers representing a political perspective different from that of the commercially successful leader in the area, as well as to under-resourced groups enabling them to launch their print publications

With the break-up of the public broadcasting monopolies in the Nordic countries first at the local level in the 80's and then at the national level in the early 90's, this regulated market approach has been transferred into the sphere of the electronic media. Skogerbø (1996) speaks about the introduction of two types of regulations: on one hand these have been structural regulations, such as removal of the legal monopoly and the introduction of broadcasting licenses, and on the other - regulations of conduct concerning available sources of income, redistribution of revenues and content. She points out that by 1993, regulated competition had replaced the monopoly as the *modus operandi* in the broadcasting market of Norway and the other Nordic countries (Ibid.:233; see also Hulten 1996, Dahlgren, 1996). Canada can also be joined to the group of countries with established market regulation policies in the electronic media field although a

monopoly of a single public broadcaster has never existed there (see Raboy, 1990, Raboy, 1996b, Lorimer and McNulty, 1987).

Curran sees a fourth model of media system emerging from the debates on reorganizing Polish broadcasting as well as in circles within the British Labour Party in the late 80's. It has the form of a proposal for a **regulated mixed economy** comprised of public, civic and market sectors. Other authors, for example Kleinwächter (1995) and Keane (1991), have referred to a similar construct as the "participatory model". Following this model, the publicly owned sector would be committed to public-service goals, including the provision of diverse quality programs and politically balanced news reporting. The market sector would be established through the sale of franchises to commercial operators who would pay an annual spectrum fee. This fee would be used to fund the civic sector which would be composed of various and innovative forms of ownership and management including employee ownership (note that many new independent papers and journals in Bulgaria started in this way but were later seized by some individuals among the editorial collectives), subscribers with voting rights (close to the practice of the Dutch broadcasting organizations), consumer co-ops and non-profit operations of civic groups. This sector, contends Curran would ensure the presence of multiple voices in the broadcasting system (for further elaboration of this model see Curran, 1996).

Curran's classification is built on an original synthesis of theoretical principles and empirical observations and offers a useful map for orientation in the complex variety of media systems operating in Western democracies. There are however a few problems that should be taken into account in this map's reading and interpretation.

First, it should be admitted that the stability of the different models (admittedly relative in principle) has been upset further by the latest developments in media technology, the globalization of media enterprises and media regulations originating at the supra-national level. Gradually, more national media systems appear to fall under a category somewhere at the border between the free market and the regulated market economy thus narrowing the variety of models available.

Secondly, the distinction between the centrally controlled market economy, the regulated market economy and the regulated mixed economy cannot be drawn simply along the continuum delineated by the free market liberal and the statist-collectivist models. There are certain normative political and ideological dimensions that have to be introduced in order to understand how these three are different from each other, if at all.

Thirdly, the practical viability of each of these models has to be conceptualized not just as a matter of choice of perspective and respectively orientation to action, but also as it is constrained by the economic, political and cultural conditions of a given society.

Finally, overlying these models is a whole array of practical regulatory measures and solutions which play an important part in how and to what effect the general political objectives are put into practice. With a view to the combination of such regulatory choices a further differentiation can be made among West European media systems. According to, for example, the powers and the rules of formation of the main regulatory authorities in media systems of the “regulated market economy” or “orchestrated market economy” type, a distinction can be made among the French centralized statist approach, where the regulation of both public and private electronic media lies in the hands of the same politically constituted body; the British approach where respective independent bodies are in charge for the different tiers of the media system with complex mechanisms in place for keeping the state at an “arm’s distance” from the electronic media while ensuring the latter’s respect for the public interest; the German approach by which the delicately structured pluralistic regulatory bodies include representatives of the structures of civil society along with politicians and media professionals; the Scandinavian approach by which the governance of the electronic media is entrusted upon the Ministry of Culture and generally the government, etc.

3. The Concept of Public Service: European and Canadian Dimensions

As it can be seen in the Bulgarian parliamentary debate on what public broadcasting actually means, the prevailing effort has been to conceptualize it as an operation legally and financially divorced from the state. Hence, the insistence on calling the national radio and television “social law” organizations, which is a nonsensical phrase from a legal point of view. The pressure to replace the allocation of funds from the state budget with a license fee has also been seen as a crucial step in the same direction. As a result, the debate has revolved around terminological controversies and technicalities and has not produced a clear working definition.

Overwhelmed with short-term political concerns (to cut off/preserve the possibility of the present government and parliamentary majority to control radio and television), Bulgarian legislators failed to frame the debate on public service in terms of function and mission which has emerged as a shared approach to this issue among theoreticians and policy-makers in Europe and Canada.

As a comparative survey of all member states carried out by a Council of Europe’s group of specialists on public service broadcasting shows, legal definitions and forms of supervisory boards vary widely

throughout the European countries (Council of Europe, 1995). Financing is predominantly based on license fees but there are countries, such as Belgium where the fee takes the form of a tax and is allocated to public broadcasting institutions through state subsidies. Canada represents one more example where the state subsidizes directly the public broadcasting corporation. Advertising is another widely used source of income by European public broadcasters and Canada.

“The concept of public service broadcasting is no longer understood in the strictly legal sense of a public organization (even though this status is still predominant in many countries), but in the functional sense of the public interest role performed independently of organizational structures” states the report of the Belgian delegation presented at the Council of Europe’s Fourth Ministerial Conference on Mass Media Policy, 1994 (Council of Europe, 1994a:14). The crucial distinction between commercial and public broadcasting that this report, in concord with media researchers (see Raboy, 1996a, Skogerbø, 1996), points to is that the latter addresses the public not as consumers of commercial products, but as citizens, which need to form an informed opinion on issues of public life, to learn and to be entertained in an ethically responsible manner.

Resolution No.1 of the same conference enlists in nine points what public service broadcasting should provide:

- (1) a common reference point for all members of the public and a factor for social cohesion;
- (2) a forum for a public discussion inclusive to a broad spectrum of views;
- (3) impartial and independent news, information and comment;
- (4) pluralistic, innovative and varied programming meeting high ethical and quality standards;
- (5) program services that is both of wide public interest and attentive to the needs of minority groups;
- (6) reflection of the different philosophical ideas and religious beliefs in society aimed at mutual understanding and tolerance;
- (7) dissemination of national and European cultural heritage;
- (8) significant proportion of original creative production, use of independent producers and cooperation with the cinema sector;
- (9) extended choice of programs not provided by commercial broadcasters (Council of Europe, 1994b)

Given the fact that some public service obligations have been imposed on commercial broadcasters in many countries as illustrated by the survey of the Council of Europe, a more comprehensive view of public service broadcasting begins to take shape. Scannell has pointed out that the commercial television in Britain was not set up outside the public service framework already in place. “On the contrary, contends Scannell, commercial television was set up within the public service system and was, and remains, a state-regulated network with a public service remit (Scannell, 1996:28).”

The Canadian Broadcasting Act of 1991, declares all broadcasting in Canada to be “a public service essential to the maintenance and enhancement of national identity and cultural sovereignty” (Canada, 1991: Article 3). The broadcasting policy set out in this act approaches Canadian broadcasting as a single system comprising public, private and community elements (see also Raboy, 1996b). Similar change in the public service concept are observed by Skogerbø with regards to the media policy of the Nordic countries (Skogerbø, 1996:278).

What is important about these examples from a Bulgarian perspective is that they suggest a holistic approach towards essentially “dualistic” or even three-tier broadcasting systems. In media policy-making both the public and the private sectors, and eventually also a community or civic third sector, have to be perceived from the standpoint of the public interest and structured in coordination. This is particularly important in a small post-communist country like Bulgaria, where a scarcity of advertising income adds up to the scarcity of the radio spectrum and available public funding. If it is considered in the public interest to sustain a dual, or a three-tier, broadcasting system, the state’s role should be to ensure fair cooperation-operation rather than fair competition with a view to facilitating the survival of both sectors.

4. The Small-Country Dimension

In a study focused on the media systems of small West European states, Trappel (1991) as well as Meier and Trappel (1992) summarize the specifics of these systems in the following terms: (1) dependence; (2) shortage of resources; (3) market size; (4) vulnerability; (5) corporatism.

These features are a source of a difficulties in an increasingly commercialized and open international environment. Public broadcasting institutions of small countries find it hard to fulfill their cultural and political functions. The ability of small states to use broadcasting for promoting national culture and sustaining cultural sovereignty decreases. Provision of diverse media content and representation in the media of the interests and needs of minority groups in small nations is put at risk as such groups represent negligible markets from a commercial point of view. The small overall market size makes the available “media capital” insufficient for the thriving of numerous commercial media operators and services. Expansion-limits are narrow due to the low permeability of the international market for small-nations’ media products on one hand and the relatively small amount of money devoted to media purposes within the country. At the same time, the relative cost of media products is very high.

On the dependency and vulnerability side, small countries’ audiences are exposed to external media flows both through pirate and satellite stations. Their media companies are susceptible to take-over by international giants and even middle-range players. Cultural products created in small countries often

comply with the anticipated demands of the larger outside markets and fail to serve the nation's self-reflection and self-knowledge.

“With the decrease in the number of independent media companies (in a small state - M.B.), the cultural and political responsibility of each one increases. Therefore the legitimacy of market regulations increases in order to assure the fulfillment of the social and cultural functions of the media as the market size becomes more constrained” argues Trappel (1991:358). He proposes an ecological orientation that should be taken up by media regulators in small states in order to facilitate the purposeful allocation of the limited media capital. Such an approach should also include the collaboration of all concerned actors in the setting up a needs-oriented policy design.

Such a “consensual media-ecology” approach however is increasingly hard to achieve since traditional structures of “democratic corporatism” (Katzenstein 1985:21 quoted in Meier and Trappel, 192:134) are falling apart. Three components have been characteristic of democratic corporatism: the economic and political social partnership, the importance of interest groups and the inclusion of all social powers in the negotiation (Ibid.:32). However, as a result of changing roles of actors in the media field, pressure from multinational corporations and supranational organizations this corporate negotiation process is giving place to individual self-interested decisions by actors.

In summary, the specific situation of small states, to which category a country like Bulgaria definitely belongs, call for a carefully sought ecological balance among different media sectors in the name of the rational utilization of the limited resources available and the defense of the national character of the country's media sphere. Consequently, the role of the state as a legislator and regulator of the media field is central to the achievement of such a balance. However, in the Bulgarian political culture, the difficulty of implementing such a process in a democratic way is much greater than in West European small countries. As demonstrated earlier in this paper, rather than by a tradition of democratic corporatism, the country's politics is marked by a tension and mistrust in the relationships between state, market players and civil society, confrontations at all levels and lack of dialogicality. What would be the way then, to allow the state to perform its much needed role in media legislation and regulation in the public interest while at the same time keeping it perceptive and responsive to the demands and ideas stemming from the media-business community and civil society?

5. The Lesson from Canada: A Voice to the Public

As pointed in Chapter 2, the question of involving the public at large and civil society in particular in the policy-making process and regulation of electronic media surfaced a number of times and in a number of

forms in Bulgarian parliamentary debate. For one, this happened in connection to the membership and constitution of the envisaged regulatory authority for the electronic media. In different ways deputies from both sides of the parliament demonstrated some appreciation of the idea that the members of the proposed single or multiple councils should be representatives of “the public” or “civil society”. In practice however, both the opposition and particularly the majority (the Parliamentary Group of the Democratic Left) insisted on imposing a partisan gauge on this representation.

A second instance was the invitation of some academic experts and representatives of those most directly affected by the prospective law on radio and television - the commercial operators, journalist organizations, etc. to take part in the discussion of the bill in the Parliamentary Committee on Radio and Television. Unfortunately, this happened quite spontaneously and at an advanced stage of the work on the bill. It never became clear how much of the input of the invited persons was taken into account in the final revision.

The appeal for a public debate was also used by the opposition a few times for strategic purposes in its attempts to slow down and block the passage of the law.

The examination of the available models of media policy shows however that it is worth giving serious consideration to the idea of public debate rather than paying it just lip service. In a fledging democracy with an embryonic civil society a structural approach to the latter’s inclusion into media policy-making as illustrated by the idea of instating its nominees into public office may not be the best and certainly not the only way to go. Rather than, or along with drawing civil society into public institutions, it may be worth considering the institutionalization of public debate as a venue at which civic society could speak to the state on issues of media policy. Such an approach has been taken in Canada and as Raboy (1990, 1994, 1995) has demonstrated, against the odds, it has produced a highly diverse, responsive and accountable electronic media system.

Raboy distinguishes three aspects in Canadian broadcasting policy: legislation, orientation and regulation. Although the three corresponding processes take place in the political sphere, they cannot be reduced solely to activities of the state. Both private business and civil society have access to channels of influence through which their interests are brought to bare on broadcasting policy. At the level of legislation for example, major changes of the Broadcasting Act are traditionally introduced by several stages of a review process with the active participation of the public. In the most recent such change initiated by the government

“Several hundred groups and individuals took part in this process, intervening first before a special independent task force, second, before the parliamentary committee that has the statutory responsibility for overseeing culture and communications policy in Canada, and

finally in front of a legislative committee examining the details of the proposed new Act.”
(Raboy, 1994:12)

The extensive quotation is offered here as an illustration of a legislative process closely intertwined with a public debate. The main point of consensus that emerged from this debate, goes Raboy’s account, were ultimately formalized in Canada’s broadcasting policy, codified in article 3 of the Broadcasting Act. Many important provisions of the Act were in fact a result of concrete pressure exerted by organized groups of civil society. Ultimately, the combination of these provisions defined Canadian broadcasting as a “publicly responsible broadcasting environment, regardless of ownership” (Ibid.:16). Let me draw attention here to the consonance of this concept with Meier and Trapell’s ecological metaphor. Raboy, however sees the importance of ecological balance in terms of public service responsibility.

The level of orientation is described by Raboy as a realm of the government which is the least open to public scrutiny and intervention.

On the other hand, at the level of regulation, a single independent public authority, the Canadian Radio-Television and Telecommunications Commission (CRTC), is charged with overseeing the development and operations of the entire national electronic media system. This extremely powerful actor, however, is required by the Broadcasting Act to turn to the public and ask for its input every time it has to make the most important decisions falling within its power. The CRTC is obliged to hold a public hearing in connection with the issuing, suspension or revocation of a license; with the amendment or renewal of a license unless it is satisfied that such a hearing is not required in the public interest. In addition to these cases, it may hold a public hearing in connection to any other matter under its jurisdiction (Canada, 1991:15, see also Raboy, 1994:18).

Article 19 of the Broadcasting Act specifies the procedure through which public hearings should be announced. The CRTC has to notify the public through Canada Gazette and appropriate newspapers of general circulation about any application received by it for the issue, amendment or renewal of a license as well as about its decisions regarding such applications and public hearings to be held.

Although the CRTC often finds itself subjected to conflicting pressure from the government, private capital and the public, in the general case, it has provided an important space for the public’s voice to be heard regarding questions concerning the direction of Canadian broadcasting as well as the performance of individual broadcasters - public and private.

Numerous citizens’ organizations in Canada have taken part in discussions of interests and issues connected with broadcasting and the media in general. Some organizations have even emerged and defined

themselves in terms of such issues and interests. The public hearings held by the CRTC have been a forum, but also a motivation for civic activity.

Without idealizing the Canadian model or overstating the democratic potential of public hearings, they could be seen as an indication that sustaining an open inclusive dialogue on issues concerning the electronic media at the level of legislation, orientation and regulation hold the promise of effectively involving civil society into media policy-making.

Conclusion

The “European model” and “European experience” has often been referred to rhetorically in Bulgarian parliamentary debates on the bill on radio and television and in reports and comments in the media. European and American experts have visited and consulted Bulgarian parliament on issues regarding media legislation. Some Bulgarian politicians have diligently studied foreign laws and regulations trying to draw examples of how particular problems had been solved in the Western world, presumably more experienced in democracy. An accent on media policy and policy-making approaches however has seldom been laid. The sets of legal provisions proposed in the course of the most substantial effort to create a stable framework for the functioning of electronic media - the work on the Law on Radio and Television - had no explicated objectives. The question of what kind of electronic media system Bulgarian society needs, desires and can afford was never clearly stated neither discussed openly with the public. In the midst of the most intensive legislative polemic in the parliament, Bulgaria desperately needed media policy, understood as “planning means and ends, strategy and implementation” (Brants, 1995).

This paper set out to find what would be an appropriate media policy for small post-communist Bulgaria by taking in consideration the reality of the historical givens in the media field, the media economy, the political structure and dynamic, as well as the cultural projections of all these.

The following conclusions come to the fore when the state of media-policy in Bulgaria is examined against the relevant experience of Western Europe and Canada:

First and foremost, the country needs the establishment of an open and democratic policy-making process in the electronic media field. Very little agreement exists in society regarding the basic terms, definitions and objectives of a democratic media system as it might be achieved in Bulgaria. The normative chaos is exacerbated by frivolous language games undertaken consciously or not by political forces with the purpose of pushing through their short-term interests at all costs.

Secondly, a vision for an overall electronic media system with its structure, dynamic and interface with the social and the international environments needs to be elaborated. Important dimensions to be considered include:

(1) What functions should this system be charged with in relation to democratic politics and national cultural identity;

(2) What sectors should this system comprise with regards to ownership and identity of operators; what roles should the different sectors play; how the limited media capital should be distributed among them;

(3) What role should be assigned to the state in sustaining and reforming this system; what safeguards will be erected against state intervention;

(4) What will be the role of business and civil society in designing, changing, operating and monitoring this system;

(5) What will be the system's relationships with the outside world: how much openness, how much protection;

Thirdly, this vision should be operationalized through concrete legal provisions, institutional structures and regulative measures. The answers given in each of the above points along with effective instruments applied in other countries will help devise the configuration of bodies and provisions that would make the system operative.

Fourthly, the open channels for public debate on media policy in general and concrete decisions at the level of legislation, orientation and regulation built in the course of the establishing of this democratic electronic media system should be institutionalized and recursively enacted each time a publicly relevant decision regarding the electronic media is needed.

In the course of this study a few experiences and ideas stood out as particularly relevant to the electronic media situation in Bulgaria.

The idea of an "orchestrated market" media system appeared relevant because of its promise to ensure (1) a maximal utilization of resources within a limited market; (2) an appropriate balance of public service obligations entrusted in different players in the media system; (3) responsiveness to the input from all segments of the public.

This system would ideally consist of a public, private and civic sector, forming a common economy, rationally sharing advertising income and public funding as well as productive resources. The German experience of channel sharing among different competitors for broadcasting operators, the British

experience of establishing quotas for independent producers on public channels, and on the other hand, of designating a public channel entirely for commissioned production; the Nordic and Canadian experiences in re-distributing income and state subsidies for civic and community operators can serve as orientation points.

Electronic media forming such a system would be regulated by a single independent public authority including representatives of the political structures as well as the structures of civic society endorsed by a qualified majority of the parliament. This authority will be charged with the power to issue licenses for private and civic operators with a view to the public interest. It will negotiate and monitor the implementation of the contract with the public broadcasters. It will report to the parliament and regard the recommendations of the parliamentary committee competent in the area. It will be obliged by law to hold public hearings regarding all its important decisions and report on how the demands of the public have been taken into account.

Public radio and television would be managed by pluralistic boards comprised by representatives of professional organizations of creators, the academic community, civil society and journalists. These organizations will enter into a contract with the regulatory authority as to their public mandate and obligations as well as mandatory relationships with the other sectors. Their financing through license fees or state subsidies should be guaranteed by stable rules that can be changed only by a qualified majority of the parliament. The conditions for advertising should be fixed in the contract.

Organizations in civil society focusing on issues relevant to the operation of the electronic media should be an active partner to the public institutions involved in broadcasting.

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