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Political pluralism in the electronic media in Hungary

Speaker:

Dr. László Majtényi

Chairman

National Radio and Television

Commission

Budapest

Hungary

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Factors of pluralism in the electronic media in Hungary

In Hungary, the following institutions aim to guarantee pluralism in the electronic media:

- 1) The provisions on ownership in act I of 1996 on radio and television broadcasting serve two important purposes: they prevent media concentration on the one hand on the other they should not hinder the development of the media system. The transparency rules further also this aim the registrar of companies public data managed by the court.
- 2) Pluralism of platforms: terrestrial, satellite and cable
- 3) The existence of public service broadcasting.
- 4) The Broadcasting Fund: which began its operation in 1997 as an independent legal entity under the Commission's management. The Act specified the responsibilities of the Fund as follows: 'The supporting of public-service broadcasting and public broadcasters, non-profit broadcasters, public-service broadcasts and programs, the preservation and development of culture, ensuring the diversity of programming' and any other activities laid down in the Act.

Pluralism in broadcasting

According to the preamble of Act I of 1996 on radio and television broadcasting the Media Act:
„With a view to the freedom of radio and television broadcasting, the freedom of expressing opinions, the independence opinions, the independence, balance and objectivity of providing information, the freedom of obtaining information, as well as supporting universal and national culture, and promoting the diversity of opinions and culture, as well as to prevent the development of monopolies in providing information, Parliament has adopted the following Act in accordance with Section 61 of the Constitution.”

As you can see it from the above, pluralism is substituted by „balance” in the Hungarian media law. The mandatory requirement pertaining to „balanced information” was born in a media model which was epitomized by the scarcity of frequencies, thus its future is doubtful.

As regards the interpretation of the notion of “balanced information provision” required by legislation for the electronic media in several European countries there are several options on offer:

- Equal treatment of political parties/sides in news programmes: almost impossible to put this principle into practice;
- Representation in news programmes according to parliamentary representation: this solution might be detrimental to parties with small parliamentary representation;
- Representation according to public poll: this interpretation could prove to be unreliable;
- The “three third” model devised by the French regulator CSA according to which the time allocated to the parties should be split up as follows: one third of the airtime to the government, one third to the government parties and one third should be allocated to the opposition.

Pluralism in broadcasting / the Hungarian solution

According to section 4 subsection 1 of the Media Act „*The information provided on domestic and foreign events which may be of interest for the general public, and on issues of dispute shall be diverse, factual, current, objective and balanced.*”

Balancedness is not defined in numbers, no exact ratio is stipulated or proportions the only requirement being that the information should be „balanced” or even „objective”. These requirements are used as „rubber definitions” by the legislator, which is ok because otherwise the editorial freedom would be limited.

The institution to oversee balanced provision of information is the Complaint Committee attached to the National Radio and Television Commission. Members of the Complaint Committee are appointed by the Board of the Commission for a term of five years. The Members of the Complaint Committee are independent. They are bound only by the law and are not bound by any instructions in their capacity.

Each case of complaint is heard by a panel of three. One of the members of the panel should have a law degree.

Proceedings by the Complaint Committee.

If a broadcaster is found biased in providing information on social issues affecting the population of a reception area, in particular, if it offers the opportunity for presenting or expressing a single or a prejudiced opinion on any controversial issue, or if it grossly violates the requirement of providing objective information in any other way, the advocate of the opinion not expressed or the injured party may lodge an objection with the broadcaster.

The complainer may not exercise his right of lodging a complaint if he has been given the opportunity but has failed to take advantage thereof or another advocate of the same position was given the chance to present the opinion that was not presented earlier. (it is not an individual injury but a community injury that is redressed).

The demand:

- The complainer may request the broadcaster to disseminate his position;
 - If the complainer is denied, he may turn to the Complaint Committee within 48 hours;
 - The Complaint Committee hears the Complainer and decides within 15 days;
 - Request for remedy against the opinion of the Complaint Committee may be submitted to the Board of the Commission within forty-eight hours of the disclosure of the opinion.
- Any request lodged by the broadcaster for remedy will have a suspensory effect;
- The decision of the Board of the Commission can be contested at court.

The interpretation of balanced information

We can only talk of balanced information if pursuant to section 4 of the Media Act *„any opinion or evaluation relayed in connection with the news communicated shall be clearly identified as such with the name of the author specified, and shall be distinguished from the news”*.

The other important mandatory requirement is that *„The regular staff of a broadcaster participating in the broadcaster's political and news programs as a host, anchorman, newscaster or correspondent may not give any opinion or relay their personal views or evaluation, other than news commentary, to the political news regardless of the type of contract under which they are employed”*.

Interpretation of balanced information / Cases

- In a studio talk programme where the guest or guests do not represent all the relevant positions the host of the programme should represent the counter arguments against the guest. (Case 22-1-1552 of the Complaint Committee).
- Humour by nature is not balanced. Thus, the Complaint Committee when denying a complaint established that it is only informative programmes that the requirement to provide balanced information, as stipulated in article 4 of the Media Act applies. Cabaret is not an informative programme. (Case 20-1-7/2001 of the Complaint Committee).
- In a case concerning Hungary's accession to the NATO, the Complaint Committee established that as opposed to the expertise and professionalism of the spokesperson of the Ministry of Foreign Affairs, the listeners' opinions were far from the level of professionalism. Objective information could have been provided if at least one professional expert on the subject representing an opposite position had been present in the programme. (Case 22-1-1552/97 of the Complaint Committee).
- In a funny case a complainer lodged a complaint that in a news programme the problems of cut Christmas-tree vendors were displayed, yet the problems of live Christmas-tree vendors were not. Although the Complaint Committee declare the violation of the mandatory requirement to provide balanced information, the Board of the Commission established that although –strictly speaking – the position of the Complaint Committee is in line with the law, however – in my view – it had misunderstood the function of the mandatory requirement to provide balanced information

Interpretation of balanced information / Cases 2

The question whether the mandatory provision of providing balanced information applies to a single programme or to a flow of programmes is not addressed by the Media Act. What is more, different courts of justice provide different interpretations to this requirement. A Hungarian broadcaster created the mandatory balance in two different programmes. Both programmes were extremely biased, representing only a single political ideology and being hostile to the opposing political views. This editorial practice only deepened the conflicts and isolated and denigrated the opposing ideology. According to the Commission, the two separate programmes presented a simplified dualistic world, in which the opposing positions and opinions have no place. Thus, the Commission suspended the broadcasting of the television for fifteen minutes for each programme.

7. SUMMARY

The National Radio and Television Commission – ORTT is the guardian of political pluralism in the electronic media. However, the new Media Act, the passing of which cannot be postponed for any longer as the present Act is quite obsolete might give a new interpretation for pluralism as with the advent of digital the scarcity of frequencies will cease to be a problem. The plethora of contents and their monitoring will require gargantuan efforts from the regulator or a new modus operandi. This could result in enhanced reliance on co and self-regulation, which is also endorsed by the new Audiovisual Directive. The digital era will also create a truly transfrontier context for broadcasting where our notion of pluralism might have to be totally reassessed.



**Thank you for your
attention!**