

**Concentration of media ownership
and its impact on media freedom and pluralism**

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Introduction to the conference topics

by

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In his speech delivered to the Friends of the Constitution on May 9th, 1791, Maximilien de Robespierre, the representative of the Third Estate in the National Assembly made the famous statement in defense of freedom of expression: “Freedom of the press is inseparable from freedom of expression; both are sacred like nature; freedom is necessary as is society. (...) Freedom of the press must be complete and unlimited, or it does not exist.”ⁱ This man, who was among the first resolute supporters of the press freedom, was beheaded three years later, along with nineteen other close collaborators, on July 28th, 1794. A crowd of several hundred thousands that watched his execution accompanied it with loud cheers. For Robespierre, the defense of press freedom represented a duty – a duty to protect the interest of the general public against the abuse of “public figures” (as he himself declared). “Is there anyone who does not see how unequal is the fight between the weak and isolated individual and his opponent armed with infinite means that bestow upon him great power and worth?” Robespierre – a public figure, was lynched by the media even before he was physically executed. Following Thermidor 10, *Le journal de la Montagne* wrote: “That Robespierre, a loathsome man, was actually a traitor, an evildoer like few among them, a conspirator who incorporated all weaknesses and tainted his personality with all crimes committed by any conspirator known so far.”

To speak about media concentration and media pluralism today means primarily to speak about democracy. In line with Robespierre’s statement, one could say that there is no democracy without freedom of expression and freedom of the press. Yet the terms democracy, freedom, equality, solidarity and the like have almost disappeared from public debates. These are the words banned by media owners from the cover pages of their newspapers, and words not featured in the “breaking news” in radio and television broadcasts.

Niklas Luhmann observes that, one conclusion that was drawn in the aftermath of the collapse of the socialist system was a widely accepted view that there was no alternative solution to capitalism. The former ideological project called »socialism with a human face« was replaced with a new one in which the newly adopted »values of the developed capitalist world« became »sacred« and beyond questioning, even on the level of contemplation.ⁱⁱ As Bourdieu and Wacquant have noted, in the vocabulary of this new “planetary *vulgata*” terms such as “‘capitalism’, ‘class’, ‘exploitation’, ‘domination’ and ‘inequality’ became suspicious” precisely because of their absence.ⁱⁱⁱ In the media and public debates they were replaced by terms such as modernity, free exchange, market laws, strong currency, privatization, private property, private initiative, Europe.^{iv} The most obvious sign of the homogenization of media discourse was the expansion of »market/economic fatalism« which appeared as natural necessity. Serge Halimi asks whether it is at all possible to be a journalist and express the slightest disagreement with neoliberalism. His answer is clear: No. At least not if you are a part of media corporations.

The issues that have become important in media concentration debates are “who speaks” and “from which position one speaks”, rather than what one speaks. Those who argue that freedom of expression and freedom of the media are the rights belonging to an individual rather than corporate media owners, are promptly categorized as supporting the leftist ideology, indeed the extreme left of the political spectrum. Moreover, such a person is labeled as advocating politically outdated and entirely mistaken/ill-conceived political projects. In short, such a person is labeled as a Marxist. Practical implications of this are best illustrated with the “polemics” recapitulated in the Council of Europe, Committee on Culture, Science and Education Report dated 3 of June 2004 (Rapporteur Mr. Paschal Mooney, Ireland) on *Monopolisation of the electronic media and possible abuse of power in Italy*:

Italian ministers and media reacted with fury at an article in the UK's Financial Times by Tobias Jones saying Italian television had become sleazy, undemocratic and dumbed-down and that the Italian television studio had replaced the senate and "soft porn has replaced hard news". Mr Jones' claims were dismissed by the communications minister Mr Gasparri who told *La Repubblica* newspaper: "It's a mix of sanctimoniousness and of Marxism, worthy of a country where there is still a section of the parliament where men wear a wig".

Before one can criticize the media, one obviously needs to define the position from which critical statements are made. For the supporters of liberalization, or deregulation of the media sphere, the position of one criticizing it using the arguments of pluralism, freedom of expression, media independency and democracy is invariably ideologically motivated. My position is clear – media concentration poses a threat to media pluralism and freedom of expression; it restricts access to the media for all marginal or different groups; it eliminates non-commercial expression/speech, favors certain political options (those of media owners) over others, turns journalistic reporting into PR articles and views individuals in terms of numbers, percentages, and fictitious audience shares sold to advertisers.

Undoubtedly, one needs to know the right questions in order to be able to analyze media ownership. Media concentration is not a new phenomenon characteristic of modern societies. What is actually new is an almost “incestuous relationship between politics and the media.” Politicians use (and abuse) media for their own political promotion. Today it is virtually impossible to seize power without the help from the media. Media owners, on the other hand, use media in their possession to promote and advocate their own political standpoints, and exploit politicians to realize their private (corporate) interests. By answering the question of who the biggest media owners are we answer the question of who holds the reins of power. The question “To whom today’s media and politicians are accountable” is linked to the question of whose interests are more important – the interests of corporations or the interests of citizens? The most recent calls to liberalize the existing ownership restrictions in the media field point to the fact that the interests of corporations have priority over the interests of citizens. The operation of the global media industry transcends the borders of individual countries. But media regulations – particularly that part that covers ownership restrictions and ensuring of pluralism – is the issue that continues to be the domain of individual nations. It is paradoxical that trans-national media corporations, when entering new markets, put pressure on individual countries to adjust their local legislation to the needs of global media companies. The logical conclusion is that global corporations can be regulated only globally. But the nearly one-decade-long debate on the adoption of a common EU Directive on media regulation and media pluralism clearly demonstrates that the interests of nation-states and those of media corporations are very similar. Both oppose all attempts to regulate media concentration and ensure pluralism.

It was precisely the issue of media concentration that provoked the strongest clashes of opinions and interests of the EP and the European Commission. In its 1990s resolution on media takeovers and mergers¹, EP placed special emphasis on restrictions explaining that »restrictions on concentration are essential in the media sector, not only for economic reasons but also, and above all, as a means of guaranteeing a variety of information and freedom of the press«. This standpoint was reaffirmed in the 1994 resolution by the EP in which it invited the Commission to propose a directive regulating both the ownership structure and the content of this cultural industry at a pan-European level. The EP considered media pluralism as »an essential element in the construction of the European Union in accordance with the requirements of democracy (EP, 1994: §N).² In the opinion of the European Parliament, the strengthening of competition among the European media should be accompanied by the strengthening of the economic and cultural pluralism in this field.

As a result, in 1992 the Commission issued the first document relating to this issue, a Green Paper, entitled »Pluralism and Media Concentration in the Internal Market (An Assessment of the Need for Community Action)».³ In this document, the emphasized standpoint was almost completely opposite to that advocated by the European Parliament: the EU intervention in the field of media ownership can be justified only by the aim to ensure efficient operation of the internal market (the area to which the Commission's authority extends) and NOT by the aim to protect pluralism (this is an area that would be left to local regulation rules).⁴

The Green Paper was a prelude to a long period of public consultations which made it clear that consensus on these issues would be very difficult to reach. It was immediately evident that the largest member states openly opposed any common Directive on media concentration. The then German Chancellor Kohl openly opposed any common legislation in this area. The idea was also rejected by the media industry, but its motives were completely different from those that were behind EP's opposition. The Parliament was of the opinion that media

¹ »Resolution on Media Takeovers and Mergers«, OJ C 68/137-138. 15. February 1990

² Resolution on the Commission Green Paper »Pluralism and Media Concentration in the Internal Market«, OJ C 44/179, 14. February 1994

³ CEC. 1992. »Pluralism and Media Concentration in the Internal Market (An Assessment of the Need for Community Action)«, Green Paper, COM(92)480 final

⁴ »safeguarding pluralism of the media is neither a Community objective nor is it in the Community's jurisdiction« (CEC, 1992: 58-60)

concentration jeopardized media pluralism, while media industry held that the existing non-harmonized local legislations forestalled the development of and competitiveness among European media companies. The gap between the two views was unbridgeable.

The Parliament, however, continued to call on the Commission to issue a Directive. After many consultations, in 1997 the Commission submitted to the public debate a new text.⁵ The very change of the Directive's title from "Concentration and Pluralism" to "Media Ownership" suggested a change in the future goal of regulation – it was the ensuring of the common market and, through it, pluralism. By introducing the "flexibility clause, that would enable the member states to individually set the thresholds of concentration," the new Directive completely invalidated the fundamental idea that envisaged the common, harmonized legislation that would apply to all. Many commentators believed that it was precisely the power of 145-billion ECU worth media corporations that stifled the Commission's initiative to ensure media pluralism.

In 2003 the issue of media concentration and pluralism was again placed on the EP's and Commission's agenda with the arguments remaining practically the same. The competition Commissioner Mario Monti thinks that "regulation in the media field is essentially economic regulation," or in other words, that any kind of regulation of this field is dependent on competition policies.⁶ As a Commissioner for the internal market (during the previous mandate) and for the competition (the present mandate), Monti prepared the Directive and then "withdrew" it waiting for better times.

And this "better time" has now come. Indeed, it is a high time a clear European viewpoint on media concentration were adopted. The European Parliament has a clear viewpoint; the Council of Europe has a clear viewpoint; the OSCE has a clear viewpoint, and the IFJ has a clear viewpoint. What we now need is a clear viewpoint of the European Commission.

⁵ Explanatory Memorandum (Media Ownership in the Internal Market), DGXV, February, 1997

⁶ »as soon as market conditions allow for doing away with regulation, the new Framework enables us to apply competition law alone.... The term 'sector-specific regulation' becoming obsolete« speech on public workshop, Brussels, 15 July 2003 (comm/competition/speeches/text/sp2003_015_en.pdf). The Commission's position on this issue changed completely in last decade. In 1990 the Commission estimated that »the application of Community competition law, in particular Articles 85 and 86 of the Treaty, (cannot) cover all situations in which a threat to pluralism is posed, notably in the case of multimedia ownership. Likewise the Regulation on mergers, adopted on 21 December 1989, covers only large mergers which affect competition on the market in question. (CEC, 1990: 21). Two years later in 1992 we could read that »the rate of mergers and concentration is faster in the media sector than in the rest of the economy as stated by the Commission (CEC, 1992: 27).

Unfortunately, the Commission has not yet come up with any such clear viewpoint. Today, participants at this conference are expected to present the viewpoint of the “East.” The East here comprises various countries that look for clear European standards and European viewpoint on this issue. The reason is that the consequences of disorderly circumstances in the media field are a threat to fledging democracies. The attention of the West is captured only by the harshest violation of the freedom of expression, that is, physical attacks on journalists or their killing. Not long ago, the director and editor in chief of the Dan daily, Duško Jovanović, was killed in Podgorica, Montenegro. The instigators of the attack on Miro Petek, a Slovenian journalist who was brutally beaten almost three years ago, are still unknown.

But, pressure on journalists and media freedom are usually more subtle and exerted on a daily basis. Censorship is no longer imposed with an iron fist but in gloves. Journalists’ salaries are miserable while the amount of work enforced on them doubled in the past five years. Many journalists do not have trade unions or cannot establish these; there are no collective agreements and increasingly more journalists work by contracts without any social security arrangements; media companies employ journalists with no adequate qualifications whose formal status is ambiguous so they can be held at bay. Let me give just one example. A daily newspaper in Slovenia has been without an editor in chief for nine months now; the editor in chief of another Slovenian daily has been negotiating the terms of the collective agreement as a representative of the employer, that is, the board of directors; and the journalists working for still another daily had to fight the attempts to tie their salaries to the sale of advertising space in their newspaper. Finally, let me mention the case of the journalists of the public service broadcaster RTV Slovenia, who were turned into civil servants who have to negotiate their salaries with the government or the ministry.

The research project presented at this conference is an analysis of the 18 countries that have certain common traits:

- Ill-defined regulations – the long and troublesome adoption process and frequent legislative amendments indicate that media regulation issues are political and politicized issues;
- privatization – haphazard/poorly defined privatization models and demands for the total liberalization of the media market resulted in a specific model of media Darwinism. Many instances of media privatization were actually “institutionalized”

forms of corruption. On the other hand, those journalists who did acquire shares in the media sold off their shareholdings over time.

- Continuous pressure on public service broadcasters – in most countries, each newly elected government first embarks on amending the legislation that regulates public service broadcasting. During the transformation process, those formerly public institutions have to cope with various sorts of crisis – financial, organizational and identity crisis, as well as an extremely strong competition from the commercial sector. Political pressure relating to news programs has not stopped, and sometimes it takes the form of demands for a live coverage of parliamentary sessions.
- In many countries, media markets do not operate by economic principles but by the principle aimed at maximizing the political influence. New (mainly domestic/local) owners artificially maintain media because they need them to promote their own, political interests.
- Incestuous relationships between politicians and media owners – new media owners are former politicians or individuals with clear affiliations with political parties. Former politicians, ambassadors and ministers, that is to say, people with political capital, sit on the management boards of media companies.
- Some countries have separate, parallel media markets controlled by foreign countries. For example, in Moldova, media content in Russian is not produced in Moldova but in Russia.
- Media in certain countries depend on foreign donations and international aid. This is a special kind of donors-supported market in which certain donors are exclusively interested in the profitability of their donations/investments.
- The situation of independent regulatory bodies which are either not given the chance to fulfill their legal duties or are indirectly subjected to political interests, which is a situation maintained by the method of appointing their members.
- Advertising market dominated by big advertisers whose majority owner is the state.

Perhaps the best description of the changes within Eastern media markets is the case of a Croatian newspaper that “survived” harsh censorship of the HDZ regime (President Tudjman’s regime), lived through a number of lawsuits filed by the then politicians, particularly a tax on pornography (for non-democratic regimes, free and critical media are pornographic), endured pressure on journalists who were threatened by conscription during the war in Croatia (and these threats were also realized in many cases). However, at the

moment, this newspaper is going through still another, the most serious crisis so far – this is a crisis created by the free market. To put simply, it failed to adapt to the demands of the liberal media environment in which high profit is a must as is adjustment to the taste of the general public. While one decade ago this newspaper fought for freedom of expression, today it has to fight for the freedom of non-commercial expression. This newspaper that in the past featured some of the best investigative pieces is now forced to sell and rent its space for stories dictated by the advertisers.

This was a glance at the East. I suppose that all of you who come from the West would agree that the western media space is not immune to various forms of the conflict of interest and pressure on the part of media owners. And what can the West see at the East? It can see the mirror image of its own experience. I would not like to elaborate on the case of Italy, even though it is precisely the “case of Italy” that is often used as an argument used by various governments of Eastern countries when fighting against the introduction of democratic changes in the media field. The case of Iceland, however, is another example that clearly demonstrates that the issue of media concentration is an extremely political issue. Towards the end of May 2004, the Icelandic parliament adopted a media law restricting the shareholdings of individual media owners. Companies with more than 2 billion kronur annual turnover and which are in a dominant position in any field of business will not be allowed to own more than 5 % in a broadcasting organisation. The bill has been criticised because it appears to target only one business, Baugur, the owner of which has fought publicly with Prime Minister David Oddsson in the past. Protesters outside the PM office claimed that the government had “completely lost touch with the people of Iceland and that the Prime Minister was completely out of control”. The Icelandic president, Mr Olafur Ragnar Grimsson last week denied confirming a media bill. The bill will now be put to a national referendum. This is the first time in the 60 years since the foundation of the Icelandic republic that a president has refused to confirm legislation.

The analysis of media concentration has been completed. At this conference we will hear several basic recommendations. However, the question of active involvement still remains open. How to change the current situation? What is an alternative? This is the area which, in my opinion, offers numerous opportunities for the cooperation of various civil initiatives and NGOs which could lead to the shaping of clear viewpoints. Noam Chomsky frequently stated that if we concede to the reasoning that nothing can be done, than indeed nothing will be

done. It is my personal conviction that things can be changed. Citizens of every country, both western and eastern, and of any other world country, must stand up for their rights.

It reminds me of the title of a poem written seventy years ago by Bertolt Brecht: »700 intellectuals bow before an oil tanker«. I hope that 60 intellectuals participating at this conference will not do the same and bow before media corporations.

ⁱ . Maximilien de Robespierre (9 May 1791), in M. Robespierre, *Izbrani spisi*, trans. from French by translators Zdravko Kobe, Nataša Perovič and Jožica Pirc. Editor – Ivan Vejvoda.(Ljubljana: Krt, 1989).

ⁱⁱ . Sciulli David. 1994. An Interview with Niklas Luhmann, *Theory, Culture & Society*, 11(2): 37-68

ⁱⁱⁱ . Pierre Bourdieu and Loïc Wacquant, "Neoliberalni novorek: zabeležke o novi vulgati", in *Družboslovne razprave*, Vol. 19, No. 43 (2003), p. 57.

^{iv} . Serge Halimi, *Novi psi čuvaji (Les nouveaux chiens du garde)* (Ljubljana: Maska in Mirovni inštitut, 2003), p. 74. translated from French by Jana Pavlič.