

**THE CONCENTRATION OF MEDIA OWNERSHIP IN**  
**ROMANIA:**  
**SUPPORTING OR CHALLENGING PLURALISM AND**  
**MEDIA FREEDOM?**

By

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## EXECUTIVE SUMMARY

Increased debate has been developed in recent years on how the reconfiguration of media ownership affects media content, and especially on whether the concentration of ownership supports or challenges pluralism and media freedom. The current thesis aims to analyze this topic in the particular case of Romania, one of EU's newest member and a market where consolidation of media ownership is currently an ongoing process. My undertaking starts from an extensive analysis of the Romanian media market, its regulations and regional specificities, for the purpose of assessing the ongoing consolidation trends. It then proceeds to the framing of general arguments used in the debate pro and against consolidation of ownership in the media field. Finally, it makes extensive use of the empirical insights offered by a set of interviews with Romanian media analysts, with the aim of drawing conclusions pertaining to the main research question: Does the concentration of ownership support or challenge media freedom and pluralism in Romania? Findings will indicate that concentration of media ownership is not a negative tendency in itself, but corroborated with regional specificities – such as lack of transparency in ownership and funding, poor implementation of the legislative framework, and the unclear division between editorial and business policies inside media outlets – it might become a source of concern.

## LIST OF ABBREVIATIONS

**ARA** – Association for Radio Audiences

**ARMA** – Romanian Association for Measuring Audiences

**BRAT** – Romanian Bureau of Auditing Print Runs

**CC** – Competition Council

**CME** – Central European Media Enterprises

**CNM** – National Media Center (Centrul National Media)

**EUMAP** – EU Monitoring and Advocacy Program

**MMA** – Media Monitoring Agency

**NCA** – National Council of Audiovisual

**PSB** – Public Service Broadcaster

**PSD** – Social Democrat Party

**RP** – Romanian Parliament

**RR** – Radio Romania

**RTV** – Romanian Television

**RWB** – Reporters Without Borders

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# CHAPTER 1. INTRODUCTION

## 1.1. *Rationale and Roadmap for the Thesis*

Debates about the concentration of media ownership and possible means of regulating it have been for some time now on the EU agenda. The Green Paper on media concentration and pluralism (EC 1992) and the two draft proposals for a Media Pluralism and then a Media Ownership Directive were subjects for debate throughout the 1990s. In addition, extensive literature has been written by scholars worldwide about the topic, different authors taking sides concerning the impact of concentration on democracy, conducting active discussions such as the ones on the online forum hosted by OpenDemocracy.com (OpenDemocracy ND).

However, in the case of one of EU's newest member, Romania, the concentration of media ownership is a fairly new subject, as international reports have included it only after the year 2000 (see RWB 2004, EUMAP 2005, Freedom House 2006). For this reason, little research is available on who owns what, with what collateral interests and how this affects the media market in Romania.

The purpose of my thesis is to fill this gap in research. More precisely, I will analyze where the consolidation trends are visible and what are their impacts on the Romanian media market. Some of the related questions I explore are the following: (1) On what markets is consolidation of ownership noticeable? (2) Should society care if owners of major media have obvious political and economic interests? (3) Is ensuring fair competition – from an economic perspective – enough to support and maintain a diverse environment? (4) Or is the media market a case too complicated for competition law alone to provide adequate regulation?

My study begins with a short post-communist history of the market, leading to a comprehensive review of the main media groups that have consolidated in the past few years and show signs of continuing consolidation at the current moment. Chapters 2 and 3 address question (1), namely which markets exhibit signs of consolidation. Particular attention is paid to the links between the major owners and political or economic interest groups – thus tackling question (2) – and how this connects with the debate between the positive and negative effects of concentration. Subsequently, I survey how the market is regulated in Romania and, while addressing question (3), I analyze whether fair competition is enough to support media diversity. Furthermore, I frame the whole debate by analyzing several arguments advanced in the scholarly literature regarding what makes the media market more difficult to regulate than other markets, as well as what are the positive and negative effects of concentration (Chapters 4 and 5). Finally, I discuss how this debate applies to the Romanian case and analyze possible answers to the over-arching question of the thesis: Does the concentration of ownership support or challenge media freedom and pluralism in Romania? (Chapter 6)

In my pursuit of solving this puzzle, I will make extensive use of information gathered by interviewing eight Romanian media analysts and one representative from the national regulator of the industry. The choice of the interviewees was the result of my analyzing significant studies, media articles or international reports about the Romanian media market and then selecting the authors who showed increased knowledge on the subjects relevant to this thesis. In establishing my contacts, of great help was my short yet effective collaboration with the Media Monitoring Agency in Bucharest, an NGO completing several studies on the Romanian media. Following recommendations from this institution, I e-mailed a set of questions to a number of researchers and media analysts. The results are

gathered in Attachment 1, together with a brief description of each interviewee (grouped in alphabetical order).

Apart from interviewing, my method of research included documentation using (1) existing national and international reports on the Romanian media market, (2) existing legislation of the industry, and (3) relevant literature that deals with the link between ownership structures, media pluralism and media freedom.

## **1.2. Terminological Aspects**

The major methodological challenges in proceeding towards the solving of the puzzle were the often ambiguous definitions that the literature and the policy initiatives provide in relation to some of the key terms. *What is “media pluralism” and “media freedom”? How should we define “concentration” on the media market?*

Two major approaches should be considered in answering the first question:

- 1) On the one hand, there are several theoretical research designs meant to set solid standards for evaluative purposes in the case of the two terms. Out of the set of indicators established by McQuail (1992), the one relevant to this thesis in terms of assessing **media freedom** is the independence of editors from owners/chains, from internal censorship, advertisers and pressure groups (p.110). As for **pluralism**, four main “dimensions of diversity” (Hoffman-Riem as quoted in McQuail 1992, p. 144) should be taken into account: diversity of *formats* and *issues* (information, entertainment etc.), of *contents* (opinions and topics), of *persons and groups* that are represented in the media and that have access to the media, and of *geographical* coverage and relevance.

2) On the other hand, there are the practical definitions used in reports by international organizations or in policy and regulatory initiatives, which often employ a more impressionistic and case-oriented approach. Every year four organizations publish reports on press freedom and pluralism. They are the Committee to Protect Journalists (CPJ), Reporters without Borders (RWB), the International Press Institute (IPI) and Freedom House. Their methodology ranges from focusing on rights violations against journalists and playing advocacy roles against media oppressions to assigning scores and grades for each country in terms of media and democracy performances. The most complex analytical framework, dealing more with freedom per se than with the plight of individual journalists, is the one employed by Freedom House because it establishes three different areas of analysis: legislative framework for the media; political pressures, censorship and violence against journalists; and economic pressures with effects on content (Becker 2003).

Despite the fact that the practical definitions only adopt a narrow component from the complex research designs existing in theory, the international reports that use them are usually regarded as reliable indicators (Becker 2003). In addition, in many cases – such as the Romanian one – they represent the only resource of empirical evidence. For this reason, I will use their indicators and results as additional evidence of the ongoing concentration trend.

As for ownership consolidation, my working definition will be the one provided by the Romanian Audiovisual Law (RP 2002, Art. 44), establishing that a media company becomes dominant when it goes beyond the upper limit of 30% in terms of market share.

My approach in analyzing concentration will only be partially based on economic grounds (i.e. potential distortions in competition resulted from concentration), and more focused on the public policy aspects of the issue (i.e. potential effects of media concentration on pluralism and media freedom). That is because I believe a public policy approach is more suitable for assessing the link proposed by the research question.

## **CHAPTER 2. THE ROMANIAN MEDIA MARKET: A SHORT HISTORY**

The current chapter will observe how the Romanian media market developed after the fall of communism. Although different perspectives are available for the analysis of media markets (e.g. content, distribution), the current one will be limited to the study of ownership structures, market shares and concentration developments in the analysis of the print and audiovisual sectors. The reason behind excluding the Internet is its low number of users, estimated at around 17% of the total population (Comanescu 2007a).

The analysis will first observe developments during the decade of the 1990s and then sketch the ongoing trend toward concentration that first became visible in the early 2000s. This will be continued in Chapter 3 with a more in-depth view on how and where is concentration manifested.

### ***2.1. Reshaping the Market on Post-communist Grounds: The First Decade (1990 – 2000)***

#### **2.1.1. The Printed Press**

The collapse of the communist regime in December 1989 was immediately followed by the abolition of the state's official control over the media. Like in all the other countries in the region, the licensing procedures that had been previously imposed by the communist authorities on the publication of newspapers were now brought to an end and the market started advancing towards privatization and pluralization (Sukosd & Bajomi-Lazar 2003). In fact, the written press was one of the primary sectors to mark the switch from a centrally planned economy to a market economy, as the publisher of what would become one of the

most popular dailies in the early 1990s, *Romania Libera*, was the first licensee registered as owning a private business in post-communist Romania, in February 1990 (Gross 1996).

Under the newly established democratic regime, periodicals mushroomed on the market. Whereas before 1989 their number registered by the National Statistics Commission was 495 (Gross 1996), by the end of 1990 the figure had boomed to 1444 (INSSE 2005). In other words, in just one year, the number of titles tripled. This was, on the one hand, due to the printing costs still being subsidized in a full or partial manner by the state in the first few years after the fall of communism, and on the other due to the high demand coming from a population that had been deprived of national media uncensored by the state for many decades. An estimated number of 8 million Romanians, which is approximately 40% of the population, read the daily national press in 1992 (Gross 1996). Compared with the 12% estimated for 2006 (OSI 2006), the figure is rather impressive. After a light decline during the mid 1990s, due to the high inflation rate and the commercial televisions entering the media market as strong competitors, the number of periodicals continued to increase throughout the late 1990s, reaching the number of 1932 officially registered titles by the year 2000 (INSSE 2005).

In terms of print runs, an even more radical change was registered throughout the decade. Whereas in 1990, the two leading newspapers *Romania Libera* and *Adevarul* had a circulation of 1.2 million and 2 million issues, respectively (Gross 1996), by the early 2000s the print run of the best-selling daily, the tabloid *Libertatea*, did not exceed 250,000 issues, and the average circulation of generalist national newspapers was below 100,000 (Martin 2005). In correlation with that, from an estimated 35% of the population reading one or more newspapers each day (Gross 2006), the figure dropped to 13% in the mid 2000s (OSI 2006).

The reasons for this are related to the competition raised by other media, including in a higher proportion commercial television and in a lower the internet.

Despite the press market apparently flourishing in the first post-communist decade, a closer look at the business models used by media outlets reveals several malfunctions. Firstly, the competitive press market was created both through the privatization of former communist outlets and through the creation of new ones (Coman 2003). However, although press outlets were officially privatized, the state continued during the 1990s to enjoy the monopoly of printing facilities and distribution, which allowed it to control the media by managing production costs (Gross 1996). Secondly, most of the important national-circulation newspapers, resulted mainly through privatization, preserved the human resources structure inherited from the communist times. This implied large and often inefficient editorial staffs, mostly maintained due to the existing networks of nepotism and to the lack of experience in running a private business (Gross 1996).

Finally, unlike their Western counterparts, Romanian media outlets did not rely primarily on advertising for their income. Even in the case of *Evenimentul Zilei*, the national daily with the largest circulation throughout the 1990s, only one out of the total eight pages was occupied by advertisements in 1994, whereas in the case of the second large *Romania Libera* the advertising space did not exceed an average of 25 to 30% of the newspaper (Gross 1996). The reasons behind this were related to the incomplete privatization of the Romanian economy; the decrease in circulation for many newspapers in the mid and late 1990s, which made them unappealing for advertisers; as well as the lack of a “market mentality” valuing advertising as a tool for selling (Gross 1996). Furthermore, the economic growth continued to develop on uncertain grounds; the legal and economical framework was highly insecure, with a pervasive pattern of “overnight changes” driven by political will; and the marketing or

advertising departments of media institutions continued to suffer from a lack of professional training and experience in attracting investors (Petcu 2000).

To conclude, the Romanian press market developed from a boom in the early 1990s, encouraged by state subsidies and high demand, to a moderate development throughout the mid and late 1990s. Several factors were responsible for the slowing down of the process. First of all, the inflation rate that got beyond control in the first part of the decade, reaching a peak of 256.1% per year in 1993. Although it slowly began to be controlled later on, by 1999 it was still high at 45.8% (INSSE 2006). Secondly, the government-owned paper producers, printers and distributors started increasing prices at a high rate. For example, the only newsprint producer in the country, the state-controlled Letea SA, raised its prices twice in 1995, amounting to a total increase of 48.3% by the end of the year. Speculations in the media hinted toward the preferential allocation of newsprint for the outlets that were not in opposition with the state's policies (Gross 1996). Thirdly, the government introduced quarterly income taxes for newspapers to pay in advance, based on estimates of future income calculated by the state. Naturally, this was a further discouragement for the potential investors in the media market. It can also serve as an explanation for why, unlike in the case of other post-communist countries such as Hungary, the Czech Republic or Poland, international moguls did not see Romania as an appealing place to invest in until 1994 (for a regional analysis see Hrvatin & Petkovic 2004 and Sukosd & Bajomi-Lazar 2003).

### **2.1.2. The Audiovisual Market**

Unlike the print media market, which was fairly decentralized and started privatization immediately following the demise of the Ceausescu's regime, the audiovisual one remained significantly more centralized. Whereas small private stations did start regional

broadcasting in Bucharest and a few other cities in the early 1990s, the state-owned *Romanian Radio (RR)* and *Romanian Television (RTV)* continued to have a monopoly on national broadcasting.

Similar to the newly privatized press outlets, both *RTV* and *RR* suffered from an inherited inefficiency in terms of oversized staff and technological equipment that, in its largest part, dated from the 1950s and 1960s. However, *RTV* also benefited from three sources of income (subscriber fees, state budget funds and advertising money) and an exemption from paying taxes on equipment purchased abroad up to a certain value. *RR* had a significant advantage as well over the regional or local independent radios, by being exempt from paying a constantly growing amount of transmission fees and taxes (Gross 1996).

The *Romanian Television*, which changed its name to *Free RTV* following the major role it had in the cohesion of anti-communist protestors during December 1989, remained truly independent for a limited time after the regime change. By mid 1990, during anti-governmental demonstrations in Bucharest and ethnic conflicts in Transylvania, the *RTV* practiced notoriously biased reporting in favor of the new president in power, Ion Iliescu (Gross 1996). Despite several scandals related to partisanship, protests of the editorial staff and the founding of the independent *SOTI TV* – which received financial help from the International Media Fund in Washington D.C. and broadcasted for a few hours a day in Bucharest – *RTV* continued to dominate the Romanian capital city's market with a 81.9% audience share in 1994 (Gross 1996). Studies for the rest of the cities are not available, yet the generally amateur productions improvised or retransmitted from foreign channels for a few hours per day or week by local and regional televisions, such as the *Free Timisoara Television*, could hardly represent serious competition for *RTV* (Gross 1996).

The situation was slightly different in the case of *RR*, which only had a 64% audience share in 1995, leaving a larger space to independent local stations (Gross 2006). However, it was only in the year 2000 that a commercial radio station with national coverage was established. *Europa FM* was an investment of the French media group Lagardere and represented the first competitor of *RR*, gradually grabbing more and more of the audience share. The radio station is currently at the top of commercial stations in terms of listenership (EuropaFM ND).

The first threat to *RTV*'s monopoly came into sight in 1994, when a new nation-wide commercial television, *Pro TV*, was founded. It was owned by the Romanian film-maker Adrian Sarbu, together with Central European Media Enterprises (CME), a multinational company which gradually bought greater amounts of shares and ended up controlling the business. By 1997, *Pro TV* reached a geographical coverage of 68% of the Romanian territory, and by 1999 it went up to 90%. This was the moment when *RTV* started "losing the battle" with private television (Carey 2004, p. 198). The late 1990s brought a significant increase in the number of local and national private television stations, thus continuously challenging the dominating position of *RTV*. All in all, by the end 1997, 75 non-state television stations were operational throughout the country (Carey 2004).

To conclude, the audiovisual market developed in a rather different pattern than the print media throughout the decade. Whereas the former was largely dominated by the state-owned *RTV* and *RR* until the mid 1990s and only afterwards registered an increase in market players and real competition, the latter started with an extreme escalation in the number of outlets and ended up with moderate development by the end of the decade. The reasons behind this lie in the greater centralization of the audiovisual outlets, following the communist pattern, as well as the consequent difficulties in liberalizing this market as

opposed to the print one. In addition, broadcasting's use of spectrum and the ensuing licensing procedure brought a type of technical hurdle that did not apply in the case of the print media. High sunk costs in terms of investment should also be considered in explaining why private firms were overabundant on the printed media market, but less so on the audiovisual one.

## **2.2. After the Year 2000: Introducing New Market Trends**

One thing can be stated without any doubt about both the print and the audiovisual market: they continued to grow at an accelerated pace after 2000. The state also gradually lost the control over publishing and distribution, thus intervening less and less on the market. As an indicator of investments and profitability, the advertising market rose from 225 million euro in 2004 (Martin 2005, p. 187) to 320 million in 2007 (Hotnews 2007a). This development, coupled with both the print and the audiovisual media markets getting more crowded by the end of 1990s (see EUMAP report 2005), might lead to the conclusion that the business environment became more competitive. However, a number of national and international reports noticed a different tendency.

A report developed by the Romanian Competition Council (2005, p.60) underlines concentration as being a visible market development, raising "dominance issues". The document also advises a close watch of media mergers for the prevention of oligopolies that would restrict the access of new entrants on the market. A similar policy advice is highlighted in the EUMAP study on *Television across Europe* (EUMAP 2005) released at the end of 2005 and depicting Romanian TV as being "in troubled waters". The main problems signaled by this report are, on the hand, addressing public television and its general lack of independence from the government, and on the other hand, commercial television, its insufficiently transparent ownership and its excessive concentration tendencies.

A larger report issued by Freedom House (2006) on media independence also reveals comparable results. Though noticing that “political pressure on the Romanian media was considerably relieved in 2005” (p.3) after the elections, the report underlines the need for more transparency in media ownership. Additionally, a radical conclusion is drawn in a study published by the “Reporters without borders” organization (2004), stressing the “berlusconization” trend noticeable especially in the local press. Offering extensive examples of small regional media “empires” owned by local government party representatives and very often funded by the preferential granting of state advertising, the report concludes that “political officials control – directly or indirectly – all but very few of the country's media” (p.3).

The following chapter will take a closer look at where and how these alleged developments towards market concentration are observed, as well as what are the regional peculiarities that should be taken into consideration when evaluating them.

## CHAPTER 3. THE CURRENT STATE OF THE MARKET

### 3.1. *Who Are the Main Players?*

This section provides a description of the main media groups that are currently active on the market, as well as their ensuing market shares. The overview will be divided by the three sectors under scrutiny: print, radio and television. The market share data will be presented for the purpose of drawing a set of more general inferences related to market concentration, both from a single and from a cross-sector perspective. The figures employed are based on statistics from 2006 provided for individual media outlets by the Romanian Bureau of Auditing Print Runs (BRAT – Biroul Roman de Audit al Tirajelor), the Association for Radio Audiences (ARA – Asociatia pentru Radio Audienta) and the Romanian Association of Measuring TV Audiences (ARMA – Asociatia Romana de Masurare a Audientelor). These institutions are in charge of a sector-based analysis of each market and hence they proved insufficient for the analytical purposes of this research.

Therefore, I chose to use the average results compiled by media analyst Comanescu from the official data and published on a well-known industry website: Romanian Media Explained ([www.comanescu.ro](http://www.comanescu.ro)) and included in several other press articles. The figures resulting from his analysis are corroborated with the ownership data supplied by the National Council of Audiovisual (NCA), which functions as an industry regulator, and by MediaIndex, an online database established by an NGO called Media Monitoring Agency ([www.mediaindex.ro](http://www.mediaindex.ro)).

After an overview of the main media groups and their market shares, I will also discuss the limitations of this study due to issues of transparency in terms of ownership and funding of media institutions.

### 3.1.1. Main Groups

- **MediaPro Group** was built around the first commercial television to reach Romanians nationwide, *ProTV*, which was launched in 1994 by the multinational company Central European Media Enterprises (CME). Because foreign ownership was forbidden in Romania at the time, the local film director and businessman Adrian Sarbu became the official licensee (EUMAP 2005, p.1281). In time, the legislation changed and CME, a company that also owns a number of other television companies in Croatia, Slovakia, Slovenia, Ukraine and the Czech Republic, managed to hold more and more shares. By 2007, it ended up having a majority of 95% from the total amount of shares (Financial Daily, 2007), the rest still being in the property of Adrian Sarbu, who also manages the group.

During the past 12 years, CME built a strong group around *ProTV*, which now includes four other television stations, each targeting niche audiences (*ProTV International*, *Acasa TV*, *Pro Cinema* and *TV Sport*), two national radio stations (*Info Pro* and *ProFM*), the most influential news agency in Romania (*Mediafax*), as well as several other national newspapers and magazines, part of which are national editions of international press (*Gandul*, *Ziarul Financiar*, *Business Magazin*, *Maxim*, *Promotor*, *Playboy*, *Ce se intampla doctore?*, *Descopera*, *Go4it*), plus a number of local dailies. In addition, the group also has its own publishing company (*Publimedia*), owns a music production (*MediaPro Music*) and a film production company (*MediaPro Pictures*) and a news website (*Infopolitic.ro*).

Although seemingly thriving across numerous media sectors, the Media Pro Group has often been accused of generating its rapid growth by accumulating a huge debt

towards the Romanian government. The implications of this fact have attracted the criticism of the EC, which defined *ProTV* as “dependent on the goodwill of the Romanian authorities” in the 2002 Regular Report on Romania’s Progress toward Accession (EUMAP 2005).

- **Intact Group** has developed around the TV station *Antena 1*, established in 1993 and representing the main competitor of *ProTV* on the national market. Its majority of shares is owned by the family of businessman and Senator Dan Voiculescu, the founder and leader of the Conservative Party. Although it is an organization with small political power (it received less than 5% of the votes at the elections of 2004), this party was regarded as a key coalition partner by both the opposition and the governing party during the elections campaign. In addition to *Antena 1*, Intact Group includes four other televisions targeting niche audiences (*Antena International*, *Antena 3*, *Antena 2* and *Euforia TV*), one radio station with a mostly urban coverage (*Radio Romantic*), a news agency (*Amos News*) and several printed periodicals (*Jurnalul National*, *Saptamana Financiara*, *Gazeta Sporturilor*, *Tango*, *Top Gear*, *Good Food*). The group also has its own publishing house (*Tipografia Intact*) and production house (*Intact Production*).
- **Realitatea Media** is one of the most spectacular new-comers on the market. Unlike the previous examples, whose business models are based on a gradual growth and the reproduction of media channels, this group extended following a series of mergers and acquisitions (MediaSind 2006). The starting point was the all-news television station *Realitatea TV*, around which an important group gradually developed. The main official shareholder, according to data on the industry regulator’s website, is a virtually unknown character in the Romanian public life: Vitalie Dobanda. In the past

year alone, the Realitatea Media group merged with another large print press group called *Catavencu*, which included several well-known dailies, weeklies and niche magazines (*Cotidianul*, *Academia Catavencu*, *Tabu*, *24 Fun*, *Superbebe*, *Bucataria pentru toti*, *Aventuri la pescuit*, *Ideii in dialog*, *I&P*), and a radio station with a mostly urban coverage (*Radio Guerilla*). The group also acquired a news agency (*NewsIn*), and founded a new television station (*The Money Channel*).

- **Ringier Romania** was established in 1992 as part of the Swiss-based multinational media network owned by businessman Michael Ringier's family, with branches in 5 European and 3 Asian countries. Its development started with the acquisition of the economic weekly *Capital* and continued with almost yearly launches and acquisitions of new print media outlets ([www.ringier.ro](http://www.ringier.ro)). The company now has the most impressive portfolio in this particular sector, covering a large numbers of genres and niche audiences, including the best-sold newspaper in Romania – tabloid *Libertatea* –, one of the most famous generalist dailies (*Evenimentul Zilei*) and sports magazines (*Pro Sport*), a free newspaper (*Compact*), several women's magazines (*Bolero*, *Lumea Femeilor*, *Unica*), youth magazines (*Bravo* and *Bravo Girl*), and TV guides (*TV Mania* and *TV Satelit*). Although until 2007 the Romanian branch of the multinational group Ringier had developed only on the print media market, starting with this year a cross-sector development seems to have been adopted as a business approach. A press release published on the company's website in January 2007 (Ringier 2007) announced that Ringier Romania is joining forces with Dogan Media International, which is the local branch of the Turkish media mogul Dogan Yayin Holding AS, to establish a new television station with national coverage in Romania, called *Kanal D*. Ringier is to own 25% of this new outlet.

- **Satiricon** is another company with a stunning expansion on the Romanian media market, as in the last year alone it acquired one of the most popular national dailies (*Adevarul*) and a tabloid (formerly known as *Averea*, now named *Click*). In addition, Satiricon is also now behind three cultural periodicals – *Dilema veche*, *Romania literara*, *Plai cu boi* –, the first of which, although not reaching spectacular print runs, is particularly known for its popularity among intellectual expats. The majority of shares in the Satiricon group is owned by Dinu Patriciu, a businessman and Liberal Party politician.
- The **Prima Broadcasting Group** started from the founding of the *Prima TV* station in the late 1990s by an American businessman of Romanian origin, Cristian Burci, who later entered in association with SBS Broadcasting Media. The latter is an important player on the European media market, owning a network of TV stations in Sweden, Denmark, the Netherlands, Belgium, Norway, Finland, Bulgaria and Hungary. SBS Broadcasting started investing more and more into *Prima TV* and had increased its ownership to 100% by 2005 ([www.sbsbroadcasting.com](http://www.sbsbroadcasting.com)). It now holds the license for both *Prima TV* and the niche station *Kiss TV*, as well as for two radio stations, mostly targeting urban audiences (*Kiss FM* and *Magic FM*).
- **Lagardere** is a French-based multinational group with operations in more than 40 countries around the world and an important presence on the Romanian radio market. Up to now, its development has been solely sector-oriented, with the founding of 2 radio stations with national coverage (*Europa FM* and *Radio 21*), but starting with 2007 it seems that the business model will be diversified. Two broadcast licenses for television were acquired by the Romanian branch of Lagardere and are scheduled to

be the basis of two new television stations (*Europa 1* and *Europa 2*) starting with the summer of 2007 (Hotnews 2007).

- **Centrul National Media (CNM)** is the group with the smallest weight on the cross-media market. It started in 2003 as an investment of Ioan and Viorel Micula, two businessmen who own a large company of alcoholic and soft beverages, called European Drinks, as well as a number of other networks of hotels, banks and food manufacturers. The group now owns three national TV channels (*National TV*, *N24* and *Favorit TV*), two networks of local radios (*National FM* and *Favorit FM*), one national daily (*Realitatea Romaneasca*), as well as shares in various other local media outlets. Following the fact that none of the Miculas' media investments, though well-funded, managed to gather significant market shares but still continue to function, reports speculate that they only decided to go into the media business to have a cross-media set of outlets that would advertise their alternative fields of business cheaper (EUMAP 2005). This assumption is based on the fact that most advertising space buyers for the CNM outlets are companies also owned by the Miculas.
- **Public Service Broadcasters (PSB)** include the *RTV* network (*RTV 1*, *RTV 2*, *RTV International* and *RTV Culture*), and the *RR* network, with its local branches in all Romanian major cities, plus several specialized radio stations (*RR Music*, *RR News*, *RR Culture*, *RR Rural*). Although both PSB networks decreased in audience shares following the rise of commercial broadcasters in the mid 1990s and early 2000s, the following section will show they still own significant market shares in both cases.

### **3.1.2. Group Market Shares**

The following tables show the position of each of the above media groups in terms of their sector-based market share. They are a result of the aggregate analysis of a source compiling data from national institutions in charge of auditing print runs and measuring audiovisual audiences (Comanescu 2006, 2006a, 2007), and two other sources showing official ownership data in the media industry ([www.mediaindex.ro](http://www.mediaindex.ro), NCA 2007). All three provide information about the market in 2006. Unfortunately, no consistent data regarding market shares from the late 1990s or early 2000s is available for all the three sectors chosen for this study, and therefore a cross time analysis is not possible. This is mostly due to the fact that only starting with January 2004 did the national regulator in the audiovisual sector adopt a coherent approach for measuring audiences in radio and TV, by organizing an official tender for the project of national media monitoring with the assistance of ARMA (NCA 2003, p. 26). Until then this had been generally done individually by media outlets or advertising agencies, lacking a common scheme of evaluation for the entire market. As for the case of the print media, although BRAT, according to information on their official website [www.brat.ro](http://www.brat.ro), started monitoring print runs in 1998, no overall data in terms of market shares is available.

**Table 1. The print market in terms of ownership**

<b>Media Group</b>	<b>Market share (%)</b>
Ringier	56
Media Pro	5
Satiricon	5
Intact	15
Others (including Realitatea)	19

*Source:* Adapted from Comanescu 2006a (based on data provided by BRAT – the Romanian Bureau of Auditing Print Runs) and ownership data from MediaIndex ([www.mediaindex.ro](http://www.mediaindex.ro))

**Table 2. The urban radio market in terms of ownership**

<b>Media Group</b>	<b>Market share (%)</b>
Lagardere	30
SBS Broadcasting	21
RR (News, Musical, Cultural, Local radios)	20
MediaPro	9
Intact	2
CNM	1
Others (including Realitatea)	17

*Source:* Adapted from Comanescu 2006 (based on data provided by ARA – the Association for Radio Audiences) and ownership data from NCA 2007 and MediaIndex ([www.mediaindex.ro](http://www.mediaindex.ro))

**Table 3. The TV market in terms of ownership**

<b>Media Group</b>	<b>Market share (%)</b>
Media Pro	26
Intact	15
SBS	4
Centrul National Media	4
Realitatea Media	4
PSB/Romanian Television	22
Others (local and small stations)	25

*Source:* Adapted from Comanescu 2007 (based on data provided by ARMA – the Romanian Association of Measuring TV Audiences) and ownership data from NCA 2007 and Media Index ([www.mediaindex.ro](http://www.mediaindex.ro))

### **3.1.3. Accuracy Issues: Transparency in Ownership and Funding**

All the data presented above is based on the official declarations of the owners and gathered by the NCA and by the initiators of the MediaIndex database. However, recent developments from 2006 have shown that this data is not necessarily accurate. Although the Audiovisual Law requires the disclosing of ownership, no effective implementation strategies were undertaken by the NCA in cases where there was an obvious disparity between the official data provided to the Registry of Commerce and the actual groups exercising control over a specific media outlet. One scheme used by some audiovisual media companies to hide their real ownership is registering in foreign tax havens, where shareholding anonymity is allowed by law, such as Cyprus, the Netherlands, the Antilles, the Virgin Islands or the Bahamas (Martin 2005).

Therefore, before starting to analyze the ownership structures across the three media sectors, some additional information should be taken into consideration. In an article published in February 2006 (EurActiv 2006), the Romanian version of the online EU journal *EurActiv* announced that the key owner of the Realitatea Media group is Sorin Ovidiu Vantu. This contradicted official data available on the NCA website, where the license owner for all the Realitatea Media's audiovisual outlets is the Cyprus-based company Bluelink Comunicazione, whose unique shareholder is the businessman Vitalie Dobanda. Well known due to his involvement in one of the biggest financial bankruptcies in the Romanian post-communist era, and still under police investigation, S.O. Vantu publicly admitted that he is the owner of *Realitatea TV*, although the ownership data still published by NCA (NCA 2007) and by the official index of Romanian media owners and journalists, MediaIndex, makes no mention whatsoever of his name. Furthermore, in an appearance at a *Realitatea TV* talk-show that followed his revealing press release (EurActiv 2006), S. O. Vantu admitted that he has been controlling the majority shares for this television station since 2004.

A similar case is the one of *Mediafax*, the news agency used most frequently by the Romanian media as a resource. Widely known as being part of the MediaPro group, *Mediafax* is officially registered as having Mediapro BV from Amsterdam as its main shareholder. However, investigation at the Chamber of Commerce in Amsterdam has shown that behind this company there is solely another company, Treadolo Investment NV, registered in the Dutch Antilles. Both Mediapro BV and Treadolo Investment NV are managed by a unit of the Dutch group ING that specializes in trustee services and that refuses to give any ownership information, invoking confidentiality (Preoteasa 2004). According to the media analyst who conducted this investigation, the lack of ownership transparency in the case of the most popular news agency in Romania “may call into question the credibility of

thousands of pieces of information daily spread countrywide” through national media (Preoteasa 2004, p. 420).

Another case that revealed disparities between official ownership data and real sponsors was the scandal involving one of the best-selling newspapers in 2005, *Adevarul* (now part of the Satiricon group). Following the death of the main shareholder, Dumitru Tinu, his legal inheritor decided to make changes in the Administrative Board by removing four members, who were also the main political columnists and were largely regarded as influential opinion formers in the Romanian media. As a result, the four resigned from *Adevarul* and established a new daily called *Gandul* (now part of the MediaPro group). This case is particularly interesting for the current study because subsequent to their resignation, the journalists started revealing that the editorial policy of *Adevarul* was practically dictated by the governing party from 2001 to 2004. Concrete evidence was released about how a high-profile politician from the then government, Viorel Hrebenciuc, influenced editorial content and allegedly acquired the majority of shares from *Adevarul* in exchange for 1.7 million dollars in 2002 (MMA 2006, p.9). Needless to say, his name did not appear in any of the official ownership data regarding *Adevarul*.

### **3.2. The Names behind the Companies**

#### **3.2.1. How Does Ownership Link with Editorial Content?**

A regional project undertaken in 2005 by the South East European Network for Professionalization of the Media investigated the business practices and corporate governance carried out in prominent media institutions throughout 11 countries in this part of Europe. The results for Romania (Martin 2005) showed that less than half of the outlets under investigation have a specific policy for the separation of the editorial management from the

business one. Martin's research showed that most existing employment contracts do not allow the editorial managers independence, and for this reason several of them "admitted making editorial decisions based on business reasons" (2005, p. 185).

Although one might argue that the occurrence of owners' influence is frequent in the shaping of editorial policies in many other countries as well, including established democracies, a few recent cases in the Romanian media show interference has gone well beyond just shaping editorial policies. Such cases are (1) taking the show of a local television from Galati off the air because it debated issues that put the owners in an unfavorable light (see Candea interview), (2) the firing of journalist Catalin Avramescu from the *Cotidianul* daily and of journalist Victor Roncea from the *Ziua* daily, allegedly due to their political views (see Pacuraru and Preoteasa interview), as well as (3) owner Voiculescu's radical and offensive intervention during a live show hosted by one of his television stations, in which a guest speaker attacked some of his actions (see Tuca interview).

The current situation leads to the establishment of a symbiotic relationship between the interests of the owners and the editorial orientation of a media outlet (see Ghinea and Candea interviews). Evidence from the past few years shows that "media owners often used their outlets for political and economical gains" (MMA 2006, p.7). In addition, research shows that many of the media companies were not created for profit, but "to exercise influence, to protect business and to attack economic and political adversaries" (Preoteasa 2004, p. 420). For this reason, according to Avadani (2007), an emergent question that journalists in Romania should pose when deciding on a job is not "*where* do I want to work?" but "*who* do I want to work for?". Starting from these facts, the next section will look at the names behind the dominating media groups.

### 3.2.2. The “Big Five” on the Romanian Media Market: Their Controversial Political and Economic Ties

Several reports and articles by media analysts (see Comanescu 2006a, MMA 2006, Avadani 2007, as well as most of the attached interviews) acknowledge the existence of five media owners who have consolidated strong media groups in recent years and announce their intentions to continue the process in the near future. Here is an overview of each of them, along with a short description of the main controversies that surround them (aggregate data from MMA 2006, RWB 2004, EUMAP 2005 and Avadani 2007).

- **Adrian Sarbu**, the manager of the **MediaPro** group, has managed to build the biggest cross-sector media group in Romania, enjoying the biggest market share on the TV market and the third place in the top of group market shares on both the urban radio and the print media market. Although without any obvious political ties, he has been accused of promoting favorable reporting for the governing party during the 2004 elections. A report by the Reporters Without Borders organization highlighted the mysterious way in which the huge debt of unpaid taxes and other state levies of MediaPro group (estimated at 5.7 million euros) was rescheduled again and again. Although other television stations were in somewhat similar situations, MediaPro’s situation was particularly prominent, because its debt was approximately 5 times bigger than any other’s and, unlike the case of the SBS-owned *Prima TV*, there were no collection proceedings scheduled for 2004. In addition, a study carried out by the Media Monitoring Agency, a Romanian NGO, during the election campaign of January 2004 revealed that *Pro TV* and the public service broadcaster, *Romanian Television (RTV)* were primarily presenting news about the ruling party, giving 62% more airtime to the government than to the opposition (RWB 2004, p. 11). This

contradicted data gathered from the monitoring of the rest of the media that showed a more balanced covering of both political sides.

- **Dan Voiculescu**, who owns the **Intact** group together with his family, is the founding leader of the Conservative Party. Before the elections of 2004, his political organization, then called the Humanist Party, joined the ruling left-wing party, PSD (Social-Democrat Party) as an ally during the campaign. Consequently, Voiculescu's most influential media outlet, the TV station *Antena 1*, adopted what was widely recognized as favorable reporting for the PSD during the campaign. However, following the loss of PSD in the elections, Voiculescu's party changed sides and joined the former opposition: a center-right coalition. Additional debate about Voiculescu relates to his presumable collaboration with the former secret police during communism – a rather sensitive issue in most Eastern European countries (Avadani 2007).
- **Sorin Ovidiu Vantu**, the real owner of **Realitatea Media** (according to Vantu's personal statements and despite official data available from NCA and MediaIndex), was for many years under investigation related to an important bank fraud that he participated in the mid 1990s and has been sentenced to two years in prison for forgery. Although the appeal is underway, his reputation is still suffering, especially following the lack of ownership transparency in the case of his media group. With the relatively recent acquisition of the *Catavencu* media group, made up of several niche magazines and the satirical weekly *Academia Catavencu*, which reaches a considerable national audience, as well as the *Guerilla Radio* station (which had not been yet extended in all major urban areas at the time of the above monitoring), it is

still difficult to estimate the exact size of the group. Official market share data (Table 3) shows only 4% from the national TV market. This is not a significant figure in itself but, according to media analyst Manuela Preoteasa (see attached interview), it becomes significant because *Realitatea TV* is an all-news station regarded as a reliable source of information by many other media outlets, thus having an important role in agenda-setting. In addition, S.O. Vantu's group certainly has an important part of the "Others" category, in both the urban radio and the print market (Table 2 and Table 1), though it is hard to estimate its exact size.

- **Dinu Patriciu** is the main shareholder of the group **Satiricon**, which is a fairly new presence on the media market. He is a long-term and prominent member of the Liberal Party, as well as the key owner of the top oil company Rompetrol. In the past years he has been involved in several investigations for alleged corruption and illegal business activities, among which the most prominent was his involvement in the "oil-for-food" international program (Financial Daily 2005). Patriciu's recent media acquisitions did not target so much profitable outlets (perhaps with the exception of *Adevarul* and *Averea/Click*), but rather prestigious ones, mostly practicing cultural reporting and political analysis for an educated audience.
- **Michael Ringier**, key owner of **Ringier**, is leading a media group with by far the most evidently dominant position on a sector-based market. Starting with the acquisition of the *Libertatea* newspaper (now best-sold tabloid) and the women's magazine *Lumea Femeilor* weekly in 1994, Ringier continued to extend exponentially by buying and launching several other titles and finally capturing more than half of the print media market. Controversies surrounded the business in 2004, when the

group was already dominating what looked like an oligopolistic market but wanted to extend more by buying the popular national daily *Evenimentul Zilei*. Though the Competition Council opposed the acquisition at first, after alleged discussions between Michael Ringier and the then social-democrat prime-minister Adrian Nastase, Ringier was allowed to buy the newspaper. Avoiding non-favorable reporting of the government was allegedly the bargaining chip used by Ringier (Avadani 2007).

Other players also have important roles in sector-based markets, such as the French group Lagardere with its network of radio stations, or even across several media sectors, such as the Miculas' CNM. In addition, the public service radio with its many branches (*Radio Romania News, Cultural, Local radios* etc.) and the public service television (*Romanian TV*) still have major presences in the urban radio and television market. However, most reports and analyses of the market agree that the "big five" are the most prominent figures in terms of influence on the market, and observing them is particularly relevant because of their political and economic ties.

### **3.3. Assessing Concentration**

Concentration is a term often used by international reports analyzing the Romanian media market (see section 2.2). However, none of these documents presents concentration as a proven fact, but rather as an ongoing development. A look at the group market shares presented in the previous subsection does not show extreme signs of concentration. The exception would be the print media market, where Ringier is in an obviously dominant position (see Table 1). Nevertheless, the 56% market share represents an overall figure, whereas in the niche markets (e.g. news media, generalist media, women's magazines etc.) Ringier does not pose any threats to competition, according to the CC (Comanescu 2006a).

The other two markets – television and radio (Table 2 and Table 3) – seem to have a fairly healthy competitive environment, with no actors having more than 30% in terms of market share.

However, all figures assessing market shares are rather vulnerable when confronted with the lack of transparency in ownership and funding. As shown in section 3.1.3 there were several cases of undisclosed real owners. In addition, several mergers and acquisitions produced significant changes in the market configuration in the past two years alone (see 3.2. and Avadani 2007), and several other similar undertakings are announced for the near future. This confirms the international reports' statements on concentration as an ongoing trend and makes the case for already discussing potential interventions. Finally, if we look across the sectors, we notice actors that have cross-sectors consolidated positions, allowing them to continue consolidation by means of cross-funding and cross-promotion. Whether these positions do pose a threat to pluralism will be a question debated in Chapter 5 and 6.

## CHAPTER 4. MARKET REGULATIONS

### 4.1. *How Is Ownership Concentration Regulated?*

Following the market analysis completed in Chapter 3, I now turn to the legal framework and how it is implemented on the Romanian media market. My main purpose here is to see how the legislative framework operates to ensure media pluralism. Additional attention will be paid to the institutions in charge of implementation of the law.

The two laws that include provisions pertaining to ownership concentration are the Audiovisual Law (RP 2002) and the Competition Law (RP 1996, amended in 2001). Whereas the former relates solely to the television and radio markets, the second one applies to all economic sectors, including the print media. In addition, their provisions in regulating concentration are slightly different.

A few aspects of the Audiovisual Law (RP 2002) are particularly relevant for the purpose of this thesis. First of all, according to Article 44, the concentration of media ownership and increase in audience shares is limited to such terms that “ensure economic efficiency but do not generate dominant positions in the formation of public opinion” (par.1). The aim of this limitation is stated as being the protection of pluralism and cultural diversity. A dominant position is considered to be that of a media company whose share from the national sector-based market is over 30%. However, this does not apply in the case of public service broadcasters (par.7). Secondly, the Audiovisual Law limits the number of media companies in which an owner can hold a majority of shares to one, with the additional possibility to hold an amount not larger than 20% from another company in the field of audiovisual communication. Thirdly, a transfer of an audiovisual license is only possible with the approval of the NCA and results in a complete shift of responsibilities to the new license

owner (Art. 56). This is particularly relevant for cases of mergers or acquisitions, in which the NCA can intervene by not approving the transfer of license.

Finally, the Law requires that “transparency rules” apply to the operation of companies in the audiovisual sector. This means that they have the duty to inform both the public and the national regulator (NCA) about initial data or changes of data concerning the following: official headquarters of the company, the name of the legal representative and of the main shareholders, the names of employees in charge with management and editorial responsibilities, as well as the list of publications and services ensured by that particular company (Art. 48 and 49). Ownership data, regarding the branches and affiliations of each media company, are also required by the Trade Register Office (Preoteasa 2004). In addition, transparency is ensured by Article 30 of the Constitution, which formulates that “By law, it is possible to oblige the mass media to disclose their financial source” (Preoteasa 2004).

Although all these regulations exist in theory and ownership transparency is a subject highly debated by national and international reports on media independence in Romania, there is no current mechanism that ensures its implementation by forcing owners to comply. No media institution has been sanctioned up to this point for not disclosing its real owners. Efforts in this direction are made both by the NCA – who often pressures media companies to reveal their real ownership – and by independent bodies. For this purpose, a Media Index project was started in 2005 ([www.mediaindex.ro](http://www.mediaindex.ro)) by the Center for Independent Journalism, the Center for Investigative Reporting, the Online Editors Association and the Media Monitoring Agency. Its main goal was to build an online database of media ownership data that was meant to reveal cross-ownership in other media or commercial sectors. Nevertheless, Sorin Ovidiu Vantu’s real ownership of Realitatea Media is widely known and debated in the media (see section 3.1.3), but has still resulted in no penalties

The Competition Law (RP 1996), which is the general piece of legislation applying to all economic sectors including the print media, mainly focuses on how to prevent having a dominant position on the market. In the Law's terms, concentration is only illegal when it leads to the creation or consolidation of a dominant position, which in turn is considered harmful "when it is likely to lead to a significant restriction, prevention or distortion of competition on the Romanian market or part of it" (Art. 13). However, economic concentration may be allowed if it increases economic efficiency or leads to progress and export competitiveness, if the positive effects of concentration compensate for the negative effects of restricting competition, or if the consumers benefit from this concentration especially through lower real prices (Art. 14, par. 2). Whereas this set of provisions might function perfectly for the regulation of other economic sectors, in the case of the media markets they might not apply. Arguments as to why media markets are different than others will be presented in the first section of Chapter 5.

To conclude, the Audiovisual Law has a more strict approach to defining dominant positions on the market, by defining clearly upper limits in media ownership, whereas the Competition Law allows more discretion to the bodies responsible for implementation.

In addition, the former only targets the limitation of horizontal concentration, without stating any boundaries for cross-ownership in the print media sector. This allows owners to extend their media groups from the audiovisual to the print media or vice-versa without particular restrictions, leaving cross-ownership to fall solely under the provisions of Competition Law. Whether giving verdicts in media cross-ownership cases following the general competition framework that applies to all other sectors has proven beneficial or not for the Romanian case in terms of pluralism and media freedom will be debated in Chapters 5 and 6.

#### **4.2. Who Monitors the Market and Implements the Laws?**

As established by the two laws mentioned in the previous subsection (RP 1996 and RP 2002), the two institutions in charge of monitoring the implementation of market regulations are the Competition Council (CC) and the National Council of Audiovisual (NCA), respectively. The following paragraphs represent a short description of the two, with a focus on how their members are appointed and what are their specific powers of intervention.

The CC is set up as an autonomous administrative authority whose purpose is to both correct the business environment so that competition is not impeded, and prevent the occurrence of unfair competition on the market. It has seven members, who are recommended by the Government and appointed by the President of Romania for a five year term. The CC's remit includes, *inter alia*, monitoring and conducting studies on specific markets, investigating and deciding in cases of Competition Law infringements, authorizing cases of economic concentration, as well as carrying out undertakings for the effective enforcement of decisions. The President of the Council is in charge of selecting cases that are open for investigation and appointing a councilor that will report on the case. Decisions in each case are taken in deliberative sessions. Each member has one vote, but when the vote ties, the President's vote prevails (Romanian Competition Council ND).

The NCA is also an autonomous authority, and its goals are, among others, ensuring that pluralism is respected in the Romanian audiovisual media, both by a balanced coverage of the language and the culture of minority groups and by the availability of a variety of sources of information engaged in free competition. The NCA is made up of 11 members appointed by the Parliament, following two proposals from the part of the Romanian President, three from the Government, three from the Deputies' Chamber and three from the

Senate. They are all appointed for six years. For the fulfillment of its role, the NCA is in charge of granting licenses and authorizations for transmission. It can also issue instructions and recommendations, or even public summons or sanctions in cases where the Audiovisual Law is not respected (NCA ND).

Although its remit extends over various aspects of the audiovisual market, most of the studies and polls conducted under the supervision of the NCA target media content issues, rather than media market ones. The activity of NCA in this area is limited to publishing a list with all the granted licenses, as well as the media groups to which they belong to. No other market research studies are available, although one of the legal attributions of the NCA is “to raise the attention of competent authorities in cases of anti-competitive practices, abuse of a dominant power or economic concentration” (RP 2002, Art. 10, par. 6).

To conclude, the division of regulatory powers on the Romanian media market is fairly imprecise in cases of concentration. Whereas at first sight it seems that the print media market falls under the jurisdiction of the CC, and the audiovisual under the jurisdiction of NCA, a closer analysis shows that the latter regulatory institution is more concerned with the regulation of content than with that of the market.

Recent evidence in this concern was the acquisition of the Catavencu media group by the Realitatea Media group. Both groups owned outlets across the audiovisual and print media sector, but it seems that only the CC had a final say in the transaction. Furthermore, there is no indication of any consultations between the CC and the NCA in the document reporting the positive verdict regarding economic concentration (Romanian Competition Council 2006). The case was discussed a few months before the acquisition by the NCA members as potentially conflicting with the Audiovisual Law, because Realitatea Media was

already the owner of two other radio licenses, but no clear conclusions resulted. However, following the CC's verdict, the NCA approved the transfer of license from Catavencu to Realitatea Media (according to data published in NCA 2007).

Though this case is singular up to now, what it suggests is that although it officially has the duty of protecting and promoting pluralism and is defined as the industry regulator (RP 2002 and interview with Gabriela Stoica), the NCA as compared to the CC has limited powers of intervention in cases of mergers or acquisitions. In addition, its active powers in terms of granting licenses can sometimes be circumvented. Examples in this sense are brought by Candea, founder of the Romanian Center of Investigative Journalism and author of many investigative reports for Romanian and international media. He highlights the case of OTV television using the license of DDTV as a "back-up license". Although the owners of the two televisions have notorious business relations and they are family related, the two licenses are registered as belonging to two different legal entities. According to Candea, this allows OTV to transfer all its activities at DDTV in case the NCA suspends its license (see interview for more details).

As revealed by Realitatea Media's acquisition of Catavencu, as well as by the positive verdict in the case of Ringier's consolidation (see Chapter 3.2.2), the CC's policies are predominantly based on economic principles. In other words, concentration is favored if it proves financially sustainable and if it does not impede competition on niche markets. One might say the complete reliance on the Competition Law principles is not surprising for a body such as the CC that uses similar grounds in the regulation of all the other economic sectors.

However, whether ensuring a proper competition framework is enough for the protection of media pluralism on the Romanian market should be brought into discussion. Can the regulation of content indeed be separated from the regulation of ownership for the goal of media pluralism? This will be one of the questions I will discuss in the following chapter. In connection to this, I will also analyze several aspects that make the media market different from other sector markets and observe the main arguments used in the debate on whether media concentration is contributing to the promotion or the harming of pluralism.

## CHAPTER 5. FRAMING THE DEBATE: IS THE CONSOLIDATION OF THE MEDIA MARKET A PROBLEM?

This chapter will observe some of the specificities related to the media markets and analyze the way in which they influence the regulation process. In addition, I draw on some of the main arguments used in scholarly literature to answer the question on whether consolidation of the media market is a problem or not.

### **5.1. *Why Is the Media Market Different from Others? Sector Specificities and Subsequent Hardships in Regulation***

In discussing the regulation of media markets, an active debate is conducted between advocates of policies who rely mostly on competition law for the prevention or sanctioning of anti-competitive practices, and supporters of a more complex approach to media regulation. The latter concept starts from the assumption that treating media as just another economic sector is not enough to ensure a successful protection of pluralism and diversity. *Why does a perfectly competitive media market not guarantee that the public has access to diverse information?*

Firstly, an argument often used in this concern is the “Hotelling effect”, a phenomenon that defines the tendency of a limited number of companies on a specific market to opt for uniformity in the range of provided services, with the purpose of targeting a similar middle ground and maximizing sales (Craufurd-Smith 2004). In media terms, this is equivalent to a convergence of programming content, best illustrated by cases such as the simultaneous broadcasting of the O.J. Simpson trial on seven different channels in the United States (Collins & Murrone 1996). However, this example might be regarded as biased because it focuses on the single example of headline news and not on overall analyses of

programming content. In addition, it does not explain the emergence and strong performance of niche channels.

Secondly, one aspect usually regarded as an indicator of good competition is substitutability. In other words, the consumer needs to have access to products that can be substituted for one another and that are thus engaged in competition. However, the same logic is not easily applicable to the media market. As opposed to other markets, which can be regulated without difficulties by competition law due to their homogeneity, media markets are heterogeneous and therefore require a different approach. Moreover, whereas in other markets consumers can be served by close substitutes when a provider goes out of business, media consumers might not find acceptable substitutes in case a newspaper or a television they value goes out of the market (Collins & Murrone 1996). However, dividing markets into homogeneous and heterogeneous is always a difficult task and it might be argued that there are other markets which show a lot of diversity too.

Thirdly, there is simply no clear correlation between the number of owners in a media market and the diversity of content. In addition, it is sometimes argued that pluralism in terms of content is more likely to be accomplished in cases of concentration rather than the fragmentation of ownership, mostly because such media companies can afford the risk of niche channels from the profit they get from other popular services (Craufurd-Smith 2004).

All in all, what remains a fact is that, unlike in the case of other markets, the media affects in a decisive manner the way society is perceived by its citizens and determines their level of civic participation (extensive research on that has been done by Peter Dahlgren, Robert Putnam and Pippa Norris). For this reason, many argue that the competition law is

helpful but not sufficient for the regulation of media markets (Collins & Murrone 1996; Craufurd-Smith 2004; Doyle 1997; McQuail & Siune 1997).

The conflicting views on what type of provisions should complement the competition laws raise difficulties in the regulation of ownership in the media market. In what follows I look at some of the hardships encountered by the EU in its attempt to adopt such regulations. I chose this example and not others, such as the US for instance, starting from the assumption that the EU legal framework generally functions as a regulatory guide for its members, including Romania.

At the current moment, the EU legal framework lacks specific stipulations regarding media ownership. Existing debates indicate that the subject is on the agenda, but no binding document has been issued in this respect. However, a few steps were made in this direction.

The Green Paper on media concentration and pluralism was the first policy document to assess the phenomenon of concentration at the EU-level and to suggest two possible measures: one implied no action at European level, and the other involved specific actions at EU level, either through an increase in the level of ownership transparency or through the harmonization of laws by means of a regulation or directive (EC 1992). It seems that the first option has prevailed because the Green Paper did not lead to the issuing of any binding document. That was mainly due to the conflicting views across Europe about what the aims and substance of a supranational policy on media ownership should be (Doyle 1997).

Furthermore, two draft proposals attempting to tackle the issue were published: one for a Media Pluralism Directive in 1996, and another for a Media Ownership Directive in 1997. The former proposed a clear upper limit of 30% for monomedia ownership in radio and television, and a 10% upper limit for total media ownership on the overall market in which an

outlet is operating (TV, radio and print). Although these limits did not seem “unreasonable” (Doyle 1997, p.7), there were some problems related to their implementation on a pan-European basis, mostly due to different-sized markets supporting different levels of diversity in terms of ownership. In Finland, for example, the market was already split between two broadcasters, each with more than 30% share (Doyle 1997).

The revised version of the first draft published in 1997 as a proposal for a Media Ownership Directive introduced a “flexibility clause”, leaving national markets more discretion in dealing with ownership cases exceeding the initial upper limits, and allowing them to apply other “appropriate measures” for the protection of pluralism (Doyle 1997). In other words, the new draft moved away from a common set of rules to be applied on all markets and, therefore, made the whole point of harmonization seem rather futile.

The failure of these EU initiatives has been attributed by some to “pressure from private interests that were against any policy that was potentially more restricting than that which was within the competition law” (Sarikakis 2004, p.155) or to “increased politicization and the loss of support of large industry as a result” (Harcourt 2005, p.115). A more complex set of reasons is analyzed by Craufurd-Smith (2005) as residing in (i) a lack of political will, resulting from conflicting opinions as to whether this should be a matter of domestic or European resolution, (ii) the complexity of addressing media ownership at a supranational level, considering the diversity of national markets and (iii) the divergent views inside the Community institutions themselves as to whether action is indeed required.

In the absence of any regulation or directive on media ownership, the legal instruments that are frequently used instead at EU level are related to the ones of the competition law: (i) Articles 81, 82 and 86 from the EC Treaty, prohibiting anti-competitive

activities and dominant positions, and (ii) the Merger Regulation, establishing, *inter alia*, thresholds in the combined turnover of merging companies and their consequent obligation to notify the DG Competition (Harcourt 2005).

## **5.2. Media Concentration: A Problem or Not? A Review of Arguments Used in the Scholarly Literature**

Following the analysis of attempts to regulate media ownership on the EU market, I will now turn to the more general debate that has developed on the subject of media concentration, thus going back to the alleged link between ownership structure and media pluralism, and analyzing the arguments behind regulations.

Briefly put, researchers are divided into two sides; one supporting and the other opposing the benefits of media ownership concentration. Scholarly authors have appeared as radical defenders in both parts. On the one hand, Robert McChesney (2002; 2002a; 2003) views the nature of current global media market policies as anti-democratic because they allow oligopolistic dominance and, in addition, are elaborated through a corrupt and non-transparent mechanism allegedly meant to accomplish the will of multinational corporations. Similar views are adopted by, among others, Noam Chomsky and Ben Bagdikian (1997).

On the other hand, Benjamin Compaine (2002; 2005) not only refutes McChesney's arguments, but he also establishes a full demonstration leading to the conclusion that concentration does not even exist as a trend in global media because the past years have seen both some large corporations rising and some other falling out of the market, thus maintaining a healthy balance. A comparable approach in demolishing the media monopoly myth is taken by David Elstein (2002) who looks at cases of unsuccessful extension of media groups outside national borders, thus refuting theories of global dominance.

As both of the arguments presented above show radical extremes in the debate, many analysts are skeptical about adopting either of them and situate themselves on more neutral grounds, observing and adding less polarized opinions to the discussion. In what follows, I will establish a list of arguments used by both sides on the debate (concisely summarized by Meier & Trappel in McQuail & Siune 1998, p. 43-45). Here are the lines of reasoning that often come up in the literature that focuses on the benefits of having a monopolistic or oligopolistic media market:

- The logic behind the economies of scale and scope is for the media companies to keep on developing. Therefore, growth is a measure of success and a monopoly or oligopoly is a natural tendency in capitalistic economic systems.
- The consolidation of production leads to the minimization of costs and prices (by sharing resources), and therefore it benefits consumers.
- Consolidated media groups have the financial power to support technological innovation and are more likely to afford the promotion of quality journalism, when compared with smaller companies. In addition, financial power allows them to better protect their independence and autonomy from political or economic pressure. Thus, they can afford to promote bolder reporting without the fear of pressure from local authorities.
- A concentrated national market can face global competition better. This applies particularly in the case of EU's efforts to be in line with the goals established through the Lisbon agenda.

- A number of economic advantages are gained by entrepreneurs who seek to consolidate their market positions: taking over a company is easier than building a new one; large companies enjoy preferential treatment in terms of loans, several financial benefits, as well as better placement for tenders in public procurement; large companies survive better in times of economic recession.

On the other side of the debate, the advocates of competitive, non-monopolistic markets often use the following set of reasons:

- The number of sources of information shrinks and there is greater uniformity of content on concentrated markets.
- Competition ensures editors their independence from political pressure, and makes them more accountable and responsive, thus working toward the public interest. Competition also increases the overall quality and coverage of news.
- Less competition or cross-media ownership means less quality and less quantity of news.
- There is no evidence that monopolistic markets bring any economic benefits to the consumers. On the contrary, they often pay higher prices for media products.
- Dominant media companies can use cross-subsidies as a means for cutting prices and throwing competitors out of the market.

A few common arguments are paradoxically adopted by both sides in the debate, resulting from the two lists above. Both claim that pluralism and independence are connected

with changes in ownership configuration. The advocates of concentration maintain the idea that only consolidated media groups can afford to be independent and do non-partisan journalism, whereas the supporters of fragmented media markets claim that only in an environment abounding in media outlets is there an incentive for the quality of journalism to increase and it is more difficult to apply overall censorship.

The contradictory statements stem from a large gap that exists in the research dealing with the impact of media ownership on media content. The fact is that no clear general effects of ownership changes on content have been established up to now (McQuail 1992). In other words, there is “no immediate link between content quality and the competitive situation of the market” (McQuail & Siune 1998, p. 55). Extensive content analysis undertaken on the United States media using a variety of research designs – like before and after an outlet loses a competitor, before and after it is acquired by a larger group or on outlets in monopolistic markets vs. outlets in competitive markets – has brought “little conclusive evidence of effect from ownership conditions” (McQuail 1992, p.116). A reason for this might be the use of the rules which apply in professional journalism and that are responsible for the suppression of any potential effects from ownership structure (McQuail 1992).

However, this argument may operate in the case of a media with well-established journalistic practices, such as the American one, but in the case of Romania things should be reconsidered. As observed by many regional analysts (Gross 1996; Sukosd & Bajomi-Lazar 2003; Hrvatin & Petkovic 2004; Jakubowicz 2007), the quality of journalistic schools founded in post-communist countries from Central and Eastern Europe, and consequently the professional standards applied by journalists, are still lagging well behind the Western ones. As illustrated in the case of the TV station *Antena 3*, where in May 2007 the owner Dan Voiculescu phoned in during a live TV show and intervened to defend himself because the

invited speaker – former Ministry of Justice Monica Macovei – raised attacking remarks regarding his person (see Tuca interview), owners often overlook professional standards and actively intervene in the creation of media content. Unfortunately, except for separate cases such as Voiculescu's, there are no overall studies measuring the length of this phenomenon in the whole Romanian media.

Therefore, without any hard evidence of media concentration affecting media content and consequently the opinions of the audience, is there any reason to keep an on-going debate about concentration? James Curran (2002) combines the approaches established by McQuail & Siune (1998) for the analysis of concentration and says yes, there is. The author claims that, on the one hand, the debate is important because the concentration of power does lead to a distortion of the democratic process and this is clearly illustrated by how the success of Silvio Berlusconi was backed by his media empire. On the other hand, Curran also claims the importance of the debate because large media group owners tend to use their power to promote their own interests or views. The author gives the example of Rupert Murdoch who founded the conservative Fox News in the United States, a TV station whose programming policy is imposed by the owner's political views. Curran's last argument is that concentration does stifle competition and erects high market barriers, like in the case of the British print market, whose oligopolistic structure has made it impossible for any new independent newspaper to be launched and to stay independent for the past 70 years (2002).

### **5.3. *Additional Arguments Applying to the Post-communist Region***

Most of the arguments mentioned above focus generally on the Western media market. Below are a few additional specificities that should be taken into consideration when discussing post-communist media markets in Central and Eastern Europe (Hrvatín &

Petkovic 2004; Jakubowicz 2007; Sukosd & Bajomi-Lazar 2003), as well as how they are reproduced in the case of Romania:

- Media markets are small and fragmented. In the Romanian case, this was particularly visible in the first post-communist decade (see section 2.1.) and is brought by Avadani (see interview) as an argument pro concentration.
- Due to small revenues from advertising, media institutions are not thriving, so they can rarely support financially the practice of quality journalism. This issue is approached by several of the interviewed Romanian analysts. Avadani, Candea and Ghinea (see attached interviews) discuss the often low professional performance of journalists, their lack of professional standards and the fact that their contracts offer little editorial independence (also see Martin 2005), which can result in a non-confrontational compliance with the owner's instructions, as well as the practice of self-censorship.
- There is a lack of legal provisions on media concentration, or even when such laws exist, their implementation mechanisms are sometimes ineffective. The clearest example of circumvention in the Romanian case is the undisclosed ownership case of S.O. Vantu (see section 3.1.3.), which makes the task of evaluating the exact size of his media group very difficult.
- Local markets are particularly weak, which makes monopolies a rule rather than an exception in these cases. A case illustrating the biased reporting that results from monopolies in local media is presented by Candea (see interview) in connection to a local television from the Romanian city of Galati.

- There is a frequently unclear division between business and editorial management and the contracts of journalists are not always conceived so as to protect their independence. An illustrative example of a Romanian owner interfering into editorial content is brought by Tuca (see interview). He presents the case of Dan Voiculescu, owner of the Intact media group, who intervened to impose his views during a live show on his TV station *Antena 3*.

Starting from the above arguments and from the ones debating the benefits or harms of concentration in general, I will develop an analysis in the following chapter on whether concentration is a positive or a negative trend on the Romanian media market in terms of media pluralism and media freedom.

## CHAPTER 6. REASSERTING THE DEBATE AND DRAWING

### CONCLUSIONS

Starting from (1) the extensive analysis of the Romanian media market, its regulations and regional specificities, and the assessment of the ongoing consolidation trends, (2) the framing of general arguments used in the debate pro and against consolidation of ownership in the media field, and (3) the empirical insights offered by attached interviews, the current chapter will draw conclusions pertaining to the main research question: Does the concentration of ownership support or challenge media freedom and pluralism in Romania?

Firstly, beneficial aspects in terms of media pluralism and media freedom following consolidation are brought on by the financial power to support quality and independent journalism that can afford to stay balanced. According to media analyst Comanescu (see interview), discussions about restricting the number of voices and opinions “come from a leftist approach that is already worn-out”, and in Romania the huge media groups that created fears of radical polarization in Western countries still do not exist. This view is shared in part by analysts Pacuraru and Avadani (see interviews). The latter states that “a certain degree of concentration is not only welcomed, but it’s actually necessary”, so as to contribute to the empowerment of a market which during the 1990s proved to be rather weak due to fragmentation and small advertising revenues, and thus was vulnerable to government influence until 2004.

Secondly, as shown throughout the thesis, some negative aspects connected to concentration’s influence on pluralism and media freedom have surfaced in the past years. According to the NCA representative, Gabriela Stoica (see interview), and analyst Tuca (see interview), concentration increases the danger of having a restricted number of voices and

opinions that the public has access to. A number of other authors signal the escalating problems related to the abuse of power that is sometimes employed by the owners of consolidated groups who intervene in editorial policies, thus restricting media freedom. Preoteasa, Ghinea and Candea (see interviews) point at evidence leading to the owners' using media outlets as a means of promoting interests groups. Furthermore, this is aggravated by the lack of transparency in ownership and funding, which makes it impossible for the public to know what those interest groups stand for.

Summing up, I believe the analysis developed in this thesis leads to the conclusion that concentration should not be treated as a worrying tendency in itself, because it leads to a more solid market supporting more quality, independent and diverse media products. However, apart from the provisions that are already in place regarding competition on the media market (see Chapter 4), the aspects that should be controlled so as to ensure that consolidation is truly beneficial in terms of media pluralism and media freedom are the following: (1) a better implementation of provisions regarding transparency in ownership and funding, so as to reveal potential interest groups behind media outlets, (2) a clearer division between editorial and business policies inside media outlets, which would prevent the owners' interference into content and thus protect media freedom, (3) a better control of licensing procedures, which would give more power of intervention to the NCA and would prevent the circumvention of law.

## APPENDIX: INTERVIEWS

### IOANA AVADANI

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**Brief description of the interviewee:** Ioana Avadani is the director of the Center for Independent Journalism in Bucharest, an NGO managing projects for increasing professional standards in the Romanian media, as well as the promotion of media freedom and pluralism. She published extensively on the Romanian media market, and in 2005 was part of the advisory board for the publication of *The Business of Ethics, the Ethics of Business*, a book resulting from a regional project conducted by the South East European Network for Professionalization of the Media.

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A.B.: Several recent reports and analyses acknowledge an undergoing tendency towards concentration that the Romanian media market is going through. Do you think this is a positive or a negative development in the case of Romania?

I.A.: I think under the current circumstances in the Romanian media market, a certain degree of concentration is not only welcomed, but it's actually necessary. The media market here was created following a liberal approach (media outlets could be founded by everyone, except those who didn't want to), which led to an excessive fragmentation of property. And when I say excessive I mean in connection with advertising budgets and the market's ability to efficiently support the increasing number of media operations. For this reason, the market is full and diverse, but the actors are weak and vulnerable. Consequently, some concentration is necessary. However, it is also highly desirable that this concentration preserves a reasonable amount of voices, covering groups and interests as large as possible, or in other words, preserves media pluralism. Unfortunately, the law does not provide any reference to cross-ownership, which means that this cannot be legally controlled and limited.

A.B.: Do you think there is a connection between the property structure of a media institution and the editorial content delivered by the journalists who work there?

I.A.: I think editorial policy is definitely influenced by the owners. The best example in this concern are the media outlets of the Intact group (*Antena 1, 2 and 3, and Jurnalul national*)

who are in the property of Mr. Voiculescu's family and are providing disproportionate coverage of the Conservative Party, which also conducted by Senator Voiculescu. I say disproportionate because the Party does not represent more than about 2% from the voting intentions of the citizens, and yet it enjoys a high TV coverage. In addition, when CNSAS gave its verdict against Dan Voiculescu<sup>1</sup>, his media group broadcasted a release of "CNSAS boycotting", repeatedly for about two days. It couldn't last longer, because this boycott was against the very nature of journalism and in the long run those who practiced it would have nothing to gain.

However, I wouldn't say journalists are often censored. That is because censorship implies forbidding the publication of a written article. Journalists practice self-censorship, meaning they anticipate the "boss'" intentions and act accordingly.

In addition, I don't think any owner keeps a close watch on what is published or broadcast by all of his outlets. I think there are important themes that should be presented in a certain light, and apart from that journalists are free to practice their job with honesty.

A.B.: The Audiovisual Law regulates media ownership for the purpose of protecting diversity on the audiovisual market. Separately, the Competition Law has a similar purpose in regulating the print media market. Do you think the two separate laws make up an efficient legislative framework for the protection of pluralism?

I.A.: As mentioned before, I think the lacking part of the legal framework is the regulation of cross-ownership. I'm not sure what would be the best legal means for this, but certainly one has to be found.

A.B.: How would you evaluate the activity of NCA and the Competition Council in monitoring how the two laws are applied (i.e. their intervention in cases of merger or other undertakings leading to consolidation)?

I.A.: I think in time NCA became a pretty solid and functional institution. I'd say it has an acknowledged authority in the industry, despite accusations related to license granting. The switch to digital television (scheduled for 2012) will reopen the audiovisual market and will

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<sup>1</sup> CNSAS stands for the "National council for the analysis of the former secret police archives". The board of the institution is mainly in charge with analyzing and revealing periodically who of the public figures did or did not collaborate with the former communist regime and under what form. In the case of Dan Voiculescu, CNSAS reached a positive verdict about his activity as an informer for the former secret police, using the code-name "Felix".

restart the process of granting audiovisual and transmission licenses. We will then see again to what extent the two institutions can function correctly and coherently.

As there are no ownership limitations for the print media, I don't think the Competition Council has the adequate tools to evaluate cases of monopolistic positions on the market. From my discussions with experts from this institution, it's not so much the actual monopoly that is regarded as harmful, but rather the abuse of this position for distorting competition.

## STEFAN CANDEA

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**Brief description of the interviewee:** Stefan Candea is one of the founding members of the Romanian Center for Investigative Journalism. He has a long-term career in the Romanian press and has done investigative reporting for several international media outlets. In 2004 he was awarded the UN's Romanian agency prize for journalism.

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A.B.: Several recent reports and analyses acknowledge an undergoing tendency towards concentration that the Romanian media market is going through. Do you think this is a positive or a negative development in the case of Romania?

S.C.: My first impulse would be to say it's a negative development, because it restricts voices and opinions, increases the power of control exercised by particular interest groups and thus damages plurality and in the end harms democracy. However, I do realize a major detail should be taken into consideration when discussing this issue here: none of the Romanian media owners do not pursue this type of business alone; their investments in the media are only targeted towards acquiring influence, power, protection for other businesses they have and, in some cases, towards avoiding to be prosecuted and sent to jail. So my definite answer would be this: concentration is a negative development on the Romanian media market, and the major reason for this is the nature of the shareholding structure in most media institutions.

A.B.: Do you think there is a connection between the property structure of a media institution and the editorial content delivered by the journalists who work there?

S.C.: I think journalists are often victims of censorship due to the commercial or political interests of media owners. And here is a recent example. A local TV station from Galati, until recently owned by the company Mittal (which is also the main shareholder for the industrial plant of Sidex)<sup>2</sup>, hosted a few months ago a live debate concerning the problems between owners and unions at Sidex. Because the opinions expressed there were critical towards the real owners of the TV station, the broadcast of the debate show was stopped after the commercial break and an older televised report was broadcast instead. The people in the

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<sup>2</sup> Sidex Galati is the largest steel and iron plant in Romania, whose privatization in 2001 led to a series of controversies due to corruption allegations related to the then government.

studio continued their debate and didn't know they were off the air until the end of the show. A large number of similar examples are available. If there is no direct censorship from the part of the editors or the owners, journalists practice self-censorship: everyone knows who they shouldn't attack because of the owner's network of interests.

A.B.: The Audiovisual Law regulates media ownership for the purpose of protecting diversity on the audiovisual market. Separately, the Competition Law has a similar purpose in regulating the print media market. Do you think the two separate laws make up an efficient legislative framework for the protection of pluralism?

S.C.: I believe a convergent law would definitely be more efficient.

A.B.: How would you evaluate the activity of NCA and the Competition Council in monitoring how the two laws are applied (i.e. their intervention in cases of merger or other undertakings leading to consolidation)?

S.C.: As long as the law can easily be circumvented, like it is the case at the current moment, I believe the activity of NCA and the Competition Council is almost null. We still have large media groups owned by off-shore companies and TV stations that, in case their license is threatened due to illegal activities, can with little effort establish another company to get a new license. One example in this sense is the case of OTV and DDTV<sup>3</sup>. As the chairman of NCA, Ralu Filip, stated at a public debate I've recently attended, OTV's license is held by Dan Diaconescu, whereas DDTV's license is held by his brother. Why is it so? Because the OTV's license is used to force the Audiovisual Law almost beyond its limits (breaking laws regarding content, not respecting professional requirements, getting fined by NCA on a regular basis and even threatened with a complete ban of transmission), whereas DDTV's license is used "for back-up". Which means that in case OTV is banned, all of its activities are moved on the license of DDTV. I think this example, which to my knowledge is replicated by many other radio and TV stations around the country, gives a very clear illustration of what the NCA and the Competition Council can do under the current legal framework: nothing!

To put it simply, the law is circumvented with great ease. Not to mention there are a lot of companies who own a television or radio license, but in parallel they operate a number of

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<sup>3</sup> Two tabloid format television stations with an average urban market share of approximately 3%, according to data published on [www.arma.org.ro](http://www.arma.org.ro) by the Romanian Association of Measuring TV Audiences

other businesses that have nothing to do with the media, and only use their outlets to promote those businesses.

## IULIAN COMANESCU

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**Brief description of the interviewee:** Iulian Comanescu started his career as a journalist during the 1990s and has worked ever since for a number of print and audiovisual media outlets. He is currently a consultant and contributor for HotNews.ro, the top independent Romanian news website. In addition, he does freelance journalism for several outlets in national and international media, and has participated as a trainer in professionalization projects initiated by the Center for Independent Journalism. He is the founder of *Romanian Media Explained* ([www.comanescu.ro](http://www.comanescu.ro)), a well-regarded online resource providing analyses of the industry.

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A.B.: Several recent reports and analyses acknowledge an undergoing tendency towards concentration that the Romanian media market is going through. Do you think this is a positive or a negative development in the case of Romania?

I.C.: I think it's a positive tendency from all points of view. Publishers in Romania did not have long-term plans or power to invest up until now. All that talk about restricting the number of voices and opinions comes from a leftist approach that is already worn-out. First of all, in Romania we do not have really strong press groups, with huge print runs, like in Western societies, where pluralism was a source of concern at some point. Secondly, since this whole issue came up, the Internet started gaining more and more ground, with blogs and collective journalism, which represent a strong adversary of this tendency.

A.B.: Do you think there is a connection between the property structure of a media institution and the editorial content delivered by the journalists who work there?

I.C.: Journalists are first of all depending on the public, which demands more and more entertainment lately. Political censorship is a phenomenon that raises a lot of discussion, but is also relatively rare. Of course there are some abuses that we should keep our eyes on, but I'd say generally speaking, media institutions are profit-oriented and nothing more, and the only way to get profit is through audience shares. Cases of political partisanship and low audience shares seem to be less and less.

A.B.: The Audiovisual Law regulates media ownership for the purpose of protecting diversity on the audiovisual market. Separately, the Competition Law has a similar purpose in regulating the print media market. Do you think the two separate laws make up an efficient legislative framework for the protection of pluralism?

I.C.: In broad terms, the legal framework is adequate, although it would be necessary to have legal provisions about the transparency of ownership for the print media or the Internet. It is true: from a certain point on, concentration has negative effects. But Romania hasn't reached that point yet.

Speaking of pluralism, press group concentration would probably be important to watch, because now there are no legal provisions pertaining to it. For example, Ringier has an aggregate market share, for dailies, sports magazines and free press, of about 56%. But this is not against any law, because, as far as the Competition Council is concerned, there are more separate markets under scrutiny. I wonder how could one make aggregate quantifications for print, television and the Internet.

A.B.: How would you evaluate the activity of NCA and the Competition Council in monitoring how the two laws are applied (i.e. their intervention in cases of merger or other undertakings leading to consolidation)?

I.C.: Following the existent legislation, I don't think there were any decisions or actions strongly contested.

## MARIUS DRAGOMIR

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**Brief description of the interviewee:** Marius Dragomir contributed as a reporter for EUMAP's *Television Across Europe* report. In addition, he published extensive media market analyses in the Romanian and European press (recent collaborations include *Dilema Veche* and *Czech Business Weekly*).

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A.B.: Several recent reports and analyses acknowledge an undergoing tendency towards concentration that the Romanian media market is going through. Do you think this is a positive or a negative development in the case of Romania?

M.D.: I think the answer is a lot more complex than this. In general, concentration has negative effects on journalism and the independence of media institutions. As stated in the *TV Across Europe* report, concentration of media ownership in only a few hands is potentially dangerous because it means a concentration of influence that can be used for political, personal, ideological or commercial gains. However, there are cases, like the ones of the small media markets (such as the Baltic States), where the concentration of property is considered the only way of operating as a media actor on that market.

A.B.: Do you think there is a connection between the property structure of a media institution and the editorial content delivered by the journalists who work there?

M.D.: The answer to this question is also complex. There are cases of media institutions with very little or no pressure at all from the part of the owners. However, there is also a general tendency for many media owners to use their media institutions as tools for propping their own interests, be they political, economical or of other nature. There are cases, such as Romania and Turkey, where media owners are often not operating these institutions for profit, but use them to promote other businesses they have.

A.B.: The Audiovisual Law regulates media ownership for the purpose of protecting diversity on the audiovisual market. Separately, the Competition Law has a similar purpose in regulating the print media market. Do you think the two separate laws make up an efficient legislative framework for the protection of pluralism?

M.B.: The two laws exist in all countries and it is impossible to combine a competition law with a media law. However, what is necessary is to have legal provisions as part of the Audiovisual Law that refer to cross-ownership. In addition, media property concentration needs to be regulated at European level as well. Unfortunately, we now only have the competition law dealing with this issue for all economic sectors in general. The only recommendations in this concern at EU level are those issued by the European Council, but they only have political significance and are not legally binding.

A.B.: How would you evaluate the activity of NCA and the Competition Council in monitoring how the two laws are applied (i.e. their intervention in cases of merger or other undertakings leading to consolidation)?

M.D.: I think the activity of NCA in terms of monitoring media ownership has visibly improved recently. The NCA should do more in monitoring the transparency of media funding and ownership. But for this to happen, the law would first need to be changed so that NCA received more power in this concern.

## CRISTIAN GHINEA

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**Brief description of the interviewee:** Cristian Ghinea is editor and contributor for *Dilema Veche*, a cultural magazine addressing an intellectual readership and with considerable popularity among expatriates. Throughout his career, he also participated actively in several NGO projects on democratization and press freedom conducted by organizations such as Freedom House and The Center for Independent Journalism.

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A.B.: Several recent reports and analyses acknowledge an undergoing tendency towards concentration that the Romanian media market is going through. Do you think this is a positive or a negative development in the case of Romania?

C.G.: I'd say it's mostly a negative tendency on the Romanian media market, and that is generally because it is now easier for political and economic interest groups to control what is delivered to the public.

A.B.: Do you think there is a connection between the property structure of a media institution and the editorial content delivered by the journalists who work there?

C.G.: I think the answer is self-evident: journalists are very often censored by the interests of the owners. And the reason is that owners are simply used to intervening whereas journalists are just used to doing what they are told. Of course this is a simplistic answer and unfortunately the reality is even more sad and vicious. The large majority of Romanian journalists consider themselves some sort of "opinion employees", so what they do is to write what they think the owner wants to hear. It's a form of voluntary self-censorship and it's impossible for us to fight it. I personally thought for a very long time that the problem is with the owners; that they are the ones coercing journalists. But by entering the system (especially since now I'm working for the *Adevarul* daily) and thus being able to form an image of how things are from the inside, I realize in dismay that journalists are doing what they think the owner expects them to do. The owner doesn't even have to ask anymore. The biggest problem is the journalists' own obedience and their belief that you can write both black and white, depending on the amount of money you get for it.

A.B.: The Audiovisual Law regulates media ownership for the purpose of protecting diversity on the audiovisual market. Separately, the Competition Law has a similar purpose in regulating the print media market. Do you think the two separate laws make up an efficient legislative framework for the protection of pluralism?

C.G.: A common law would definitely be more efficient, especially to monitor and intervene in cases of cross-ownership.

A.B.: How would you evaluate the activity of NCA and the Competition Council in monitoring how the two laws are applied (i.e. their intervention in cases of merger or other undertakings leading to consolidation)?

C.G.: I think a more active anti-cartelization policy is required from both institutions. A few steps were made in the past months from the part of the NCA, but the Competition Council still has a lot to do in finding the real owners of TV stations. We are at least a bit ridiculous when Sorin Ovidiu Vantu gives interviews in which he says he owns Realitatea TV and talks extensively about his relations with the journalists there, when at the same time the legal owner of Realitatea TV is an off-shore company. How could we then ensure a good implementation of a cross-ownership law?

## COSMIN PACURARU

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**Brief description of the interviewee:** Cosmin Pacuraru has a long-term history as a journalist in the Romanian mass-media. He is currently writing regular columns and reports on subjects related to the media market in the highly-regarded business weekly *Saptamana Financiara*.

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A.B.: Several recent reports and analyses acknowledge an undergoing tendency towards concentration that the Romanian media market is going through. Do you think this is a positive or a negative development in the case of Romania?

C.P.: I think it's both. On the one hand, a consolidated media company creates opportunities for the financial support of quality journalism, which is highly needed in the Romanian media. On the other, it raises the danger of having economic and political interest groups trying to control the media and forward their own agenda to the public.

A.B.: Do you think there is a connection between the property structure of a media institution and the editorial content delivered by the journalists who work there?

C.P.: Yes, I think journalists are often suffering censorship related to the political and economic interests of the owners. A recent example is that of Catalin Avramescu from the "Cotidianul" daily<sup>4</sup>.

A.B.: The Audiovisual Law regulates media ownership for the purpose of protecting diversity on the audiovisual market. Separately, the Competition Law has a similar purpose in regulating the print media market. Do you think the two separate laws make up an efficient legislative framework for the protection of pluralism?

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<sup>4</sup> The columnist Catalin Avramescu was fired from the editorial staff of "Cotidianul" a week after the change of the editorial director in April 2007. According to an article analyzing both sides in the case, published by the daily *Evenimentul Zilei* (24 April 2007), Avramescu says: "[I was fired] because my articles are popular and denounce the corruption and mockery towards the country that result from the prime-minister's policies. Probably because I hit on [prime-minister] Tariceanu". The editorial director of the Realitatea Media group, who owns "Cotidianul", declared "[Avramescu] vocalized opinions that were brutally contradicting the editorial policy of "Cotidianul": he was anti-EU, had anarchical sympathies and a radicalism that is not shared by the rest of the editorial staff. [...] This has nothing to do with his attitude towards Tariceanu, but about [...] him voicing opinions in the newspaper's name".

C.P.: No, I think they are not. I think a common law, that would apply to both the audiovisual and the print media market, and that would also imply monitoring and limiting cross-ownership, would be more efficient for market regulation.

A.B.: How would you evaluate the activity of NCA and the Competition Council in monitoring how the two laws are applied (i.e. their intervention in cases of merger or other undertakings leading to consolidation)?

C.P.: I think the activity of both NCA and the Competition Council could be improved and that would be possible by making more effort towards finding out the identity of the real investor in a media company and its funding sources. This would lead to a better definition of the actual interest groups that are behind a specific media institution.

## MANUELA PREOTEASA

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**Brief description of the interviewee:** Manuela Preoteasa contributed as a reporter for EUMAP, the monitoring and advocacy program conducted by the Open Society Institute. She is also the director of *EurActiv*, a network of European online portals providing up-to-date information on European affairs. Her published research includes contributions to the volumes *Media Ownership and its Impact on Media Independence and Pluralism* and *The Business of Ethics, the Ethics of Business*, both part of regional projects conducted by the South East European Network for Professionalization of the Media.

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A.B.: Several recent reports and analyses acknowledge an undergoing tendency towards concentration that the Romanian media market is going through. Do you think this is a positive or a negative development in the case of Romania?

M.P.: To answer this question, let's see first whose media groups are consolidating. On the one hand there are the groups of Voiculescu and S.O.Vantu. Both have a shady image, the former due to his collaboration with the communist secret police, the latter due to his several law breakings and subsequent trials. In addition, each owns an all-news television station, *Antena 3* and *Realitatea TV*, that often performs the role of a news agency and agenda setter for the rest of the Romania media. On the other hand, there is Adrian Sarbu's group, Media Pro. What this group does through all its outlets is to create a public taste for tabloid discourse, scandal and entertainment, and divert public attention from political debate. Therefore, starting from these facts, I'd say in the Romanian case concentration is not particularly positive. That is not because concentration is a bad thing in itself, but because Romanian media owners abuse their dominant power on the market for commercial or political gains that mostly do not coincide with the public interest. In addition, there is no transparency in terms of ownership and funding, so it is very difficult for the audience to guess the interests hidden behind a media group. Whereas up to 2004 there was a clear pressure from the government towards the media, now there is an "apparent" independence, covering hidden pressures from the owners.

A.B.: Do you think there is a connection between the property structure of a media institution and the editorial content delivered by the journalists who work there?

M.P.: There are plenty of cases in which there is a connection. The latest is that of the journalist Victor Roncea who was forced by the ownership to quit the *Ziua* newspaper because of his political views. Additionally, we see conflicts and partisanship between media groups. At this point, for example, there seems to be an understanding between Realitatea and Intact. Both promote each other's media outlets and both have a common campaign against president Basescu.

A.B.: The Audiovisual Law regulates media ownership for the purpose of protecting diversity on the audiovisual market. Separately, the Competition Law has a similar purpose in regulating the print media market. Do you think the two separate laws make up an efficient legislative framework for the protection of pluralism?

M.P.: I believe an essential clause is missing from the current legislative framework: property in the print media sector is not regulated in correlation with property in the audiovisual sector. In addition, there is lack of procedural clarity in cases of transferring licenses.

A.B.: How would you evaluate the activity of NCA and the Competition Council in monitoring how the two laws are applied (i.e. their intervention in cases of merger or other undertakings leading to consolidation)?

M.P.: The NCA's activity has improved over the years, but what it still lacks is more normative clarity in terms of applied procedures, as well as more power to intervene for the disclosure of ownership.

## GABRIELA STOICA

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**Brief description of the interviewee:** Gabriela Stoica is a representative of the National Council of Audiovisual (NCA), an institution functioning as an industry regulator.

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A.B.: Several recent reports and analyses acknowledge an undergoing tendency towards concentration that the Romanian media market is going through. Do you think this is a positive or a negative development in the case of Romania?

G.S.: In NCA's view, concentration of media ownership in the hands of a decreasing number of actors is a negative development due to the dangers of having a restricted number of voices and opinions that the public has access to, as well as having interest groups controlling the media.

A.B.: The Audiovisual Law regulates media ownership for the purpose of protecting diversity on the audiovisual market. Separately, the Competition Law has a similar purpose in regulating the print media market. Do you think the two separate laws make up an efficient legislative framework for the protection of pluralism?

G.S.: Yes, I think the two laws are comprehensive and sufficient.

A.B.: Is there a specific procedure according to which the NCA and the Competition Council are sharing their activities in monitoring how the laws regarding ownership are applied on the media market?

G.S.: There's no need for that. The NCA regulates only the audiovisual market.

A.B.: What are the concrete means of intervention by which NCA can intervene for market regulation? For example, can it stop mergers and acquisitions?

G.S.: According to the law, an audiovisual license can only be yielded with the approval of NCA. Thus the Council can either issue a negative or a positive verdict, depending on the extent to which the provisions of articles 43 and 44 from the Audiovisual Law nr. 504/2002 are respected.

A.B.: Do you think the attributions conferred by the Audiovisual Law to NCA are sufficient for this institution to have enough power of intervention for ensuring a balanced media market and the protection of pluralism?

G.S.: Yes, I think there is sufficient power.

## IULIAN TUCA

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**Brief description of the interviewee:** Iulian Tuca is a regular contributor to Romanian and European media outlets such as *Cotidianul* and *Deutsche Welle*. His area of expertise is European policies and his articles often touch upon media policy issues.

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A.B.: Several recent reports and analyses acknowledge an undergoing tendency towards concentration that the Romanian media market is going through. Do you think this is a positive or a negative development in the case of Romania?

I.T.: I think concentration in general harms the quality of democracy by limiting diversity and pluralism. Therefore, it's a negative tendency.

A.B.: Do you think there is a connection between the property structure of a media institution and the editorial content delivered by the journalists who work there?

I.T.: Yes, I think there is a connection and censorship from the part of the owners is quite frequent. Probably the most famous case in this respect is Dan Voiculescu's intervention during Gabriela Vranceanu Firea's show on Antena 3, where the former Ministry of Justice Monica Macovei had been invited<sup>5</sup>.

A.B.: The Audiovisual Law regulates media ownership for the purpose of protecting diversity on the audiovisual market. Separately, the Competition Law has a similar purpose in regulating the print media market. Do you think the two separate laws make up an efficient legislative framework for the protection of pluralism?

I.T.: I believe a law that would apply to both the audiovisual and the print media would be more efficient.

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<sup>5</sup> In May 2007 Dan Voiculescu phoned in during the live show *Stirea Zilei* hosted by Gabriela Vranceanu Firea on *Antena 3* and repeatedly insulted the former Ministry of Justice Monica Macovei. As a result, NCA addressed an open letter to *Antena 3*, expressing worries about the interference of Voiculescu. In her reply, Gabriela Vranceanu Firea said Voiculescu expressed his opinions by virtue of his position as leader of the Conservative Party and not as owner of the Intact group (*Hotnews*, 4 May 2007).

A.B.: How would you evaluate the activity of NCA and the Competition Council in monitoring how the two laws are applied (i.e. their intervention in cases of merger or other undertakings leading to consolidation)?

I.T.: The Competition Council did not intervene in any way to ensure a balanced media market and to protect pluralism. And that is because there no specific legal provisions in this respect. What I personally think would be useful is to have a legal provision as part of Competition Law that would compel them to publish by the end of every business quarter a report about their financial records and about the activities from where their capital comes from, such as donations, loans or gains from other business sectors they are involved in.

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