SLOVENIA: THE PERIOD OF "CAPITALIST ENLIGHTENMENT"

SLAVKO SPLICHAL

Slavko Splichal is Professor of Communications at the Faculty of Social Sciences, University of Ljubljana, Kardeljeva pl. 5, 61000 Ljubljana.

Introduction

In April 1994, the main Slovenian daily newspaper Delo started to publish the following editorial statement in the section devoted to readers' letters to the editor:

> *Due to the new Law on the Public Media (April 23, 1994), editors are not bound any more by the provisions of the old Law on Public Information of 1986, that prescribed a special procedure in dealing with readers' letters. This means that from now on, the editors reserve the right to publish them or not, to abridge, summarise, or to publish them only partially, in accordance with the editorial policy and the space available. (...) The selection of letters is an exclusive right of the editors, in accordance with the editorial policy, which denotes Delo as an independent, non-party, and politically balanced newspaper, at service to the interests of the public, or civil society.*

This editorial declaration is in a sharp contrast to the formerly declared right of citizens to publish their opinions, that has been, for more than three decades, one of the cornerstones of the legal regulation of the media in the former Yugoslavia. The right of "Yugoslav citizens, regardless of their nationality, language or religion, to express and publish in the communication media their opinions," was first introduced by the Yugoslav Press Act, adopted in 1960. Three years later, this right became, for the first time in the human history, a constitutional right: The ex-Yugoslav Constitution of 1963 guaranteed the citizens "the right to express and publish their opinions in the public media" (Art. 167). However, neither the Act of 1960 nor subsequent federal and republican constitutions (1963 and 1974) and press laws have stipulated how this revolutionary right — in contrast to the right of reply and the right to correct, whose execution was clearly determined by law — would be implemented and protected. There existed mechanisms of appeal to which the individual, whose letter was not accepted for publication, might resort, but the process was extremely slow and cumbersome. Nevertheless, in the

eighties, this right - together with the right to reply and the right of correction - became frequently used by citizens, mostly in newspapers. The most important precedent occurred in a 1985 lawsuit when the Supreme Court of Slovenia ordered the main daily newspaper in Slovenia Delo (in that time the organ of the Socialist Alliance) to publish an article by a citizen criticising a high functionary of the Communist Party, but which the editor of Delo did not want to publish earlier. This case has become a very celebrated one for both editors and journalists, and citizens. The lawsuit opened the door to the democratisation of both communication and political spheres in Slovenia.

However, when in 1991 the Slovenian Ministry of information presented to the democratically elected multiparty parliament amendments to the former Act on Public Information adopted in 1985, it suggested "to cut out the provisions related to the publication of opinions." The Ministry admitted that "this citizens' right represented a great achievement of civilisation under the conditions of a one-party system." Nevertheless, it argued that "in a plural society and developed information market such a citizens' right, or duty of the media, is an anachronism; the media will be forced to publish opinions important for the public primarily because of the pressure of competition" (Splichal 1991, 497). This attitude of the then existing Ministry of Information (it was later transformed into the governmental information office) was strongly supported by the majority of journalists and their professional association.

The tendency of journalists (as potential owners of the press after the privatisation process) and media management to limit access of non-professionals to the media, which is hidden in the "new professionalism" of journalists, is neither new nor specific to any particular system. Lazarsfeld (1972, 123) considered "a nervous reaction to criticism" often exhibited by the media as an institutional disease, which is paradoxical because the media vigorously defend principles guaranteeing the right to criticise when their freedom is at stake, and try to limit the same right when another social actor — either a citizen or the state — wants to have it. It is paradoxical, however, that the "maturation" of the transition from the system of socialist self-management to a developed market economy and multiparty parliamentary political system is indicated by the abolition of the legal provision, that in fact enabled the initiation of this very process. Even more, this has been supposedly done "at service to the interests of the public, or civil society" in the period of time when civil society was in fact massively jeopardised by the state and political parties.

During the whole five-year transitional period, the changes of media system represented a highly politicised question; political debates about legal changes in the media sphere attracted as much attention as the questions of constitutional changes. The reasons are obvious. The media had an important role before and during the revolutionary political changes of the 1980s, and they continue to play an important political role. Significant political and economic changes in Slovenia were also aimed directly at the transformation of the party- or state-owned media. Finally, in one way or another, all the central questions of the period of transition pertain to the media: the role of the state and civil society, the question of democratic pluralism, problems of denationalisation and privatisation of the means of production, the quest for sovereignty and, of course, the liberalisation of the media systems themselves.

Media debates reflected key controversies within the general indigenous project of democratisation of the Slovenian society, but a number of ideas in the discussions about the reorganisation of the communication sphere were guided by the political agenda of conservative ideology in Western countries. They largely supported the libertarian principle that private rights to property and choice are the most effective and efficient engines of economic and social progress, and saw market competition as the fundamental condition of freedom of the media. Postcommunist communication policy in Slovenia is based on the liberal theoretical argument about the free "market-place of ideas" which would create an informed citizenry, able to make rational decisions. Although there is no doubt that these arguments are aimed at establishing free media not inhibited by authoritarian interference from above, they disclose another dogmatism by underestimating the tendencies of mental homogenisation and monopolisation inherent in a market-driven media system, and limitations of citizens' access to media organisations.

The political arguments that prevailed in the debates in Slovenia, and in other East-Central European countries as well, actually reproduced what has been already said and seen in Western Europe before and after the take-off phase of private television networks. Political control and state interference, ideological monopoly, bureaucratic rigidity, and the economic inefficiency of the state or party-owned media under the former regime were the most commonplace allegations made against the former media system, but all those arguments did not prevent the new state authorities interfering in the media.

In many respects, new ruling coalitions which include(d) such diverse political parties as Christian democrats, social democrats (former Communists), liberal democrats and the Greens, were basically founded as coalitions without any significant and transparent differentiation in terms of their political platforms. A number of new anti-Communist ideologists were close collaborators of the former regimes. The first coalitions were basically patched up for tactical electoral advantage, aimed at overthrowing the former socialist regimes and introducing parliamentary democracy. Despite the fact that the market place is becoming a common denominator of pluralism and democratic restructuring, Slovenian political parties and the state still tend to preserve the traditional paternal control over civil society and the media, similarly to other Central-East European countries, although the forms of authoritative penetration changed, mainly due to capitalist-oriented politics. As a consequence of state- and market economy-centred logic, a kind of paternal-commercial media system is emerging, with a tendency of privatisation and commercialisation of the media (particularly the press) on the one hand, and of maximising and/or exercising state power over the media (television in particular) on the other.

Both the ruling coalitions and the oppositional parties see broadcast media as corporate "democratic" organs of the new "pluralist" party-state, i.e., in the same perspective as they were regarded by the former authorities. This old authoritarian conception of the totalitarian policy practised for decades by the former socialist regimes may be found in other activities as well, for example in controlling nominations of chief personnel in educational, cultural and health institutions, or in

wooing intellectuals to become party members or prophets.

In terms of its homogeneity and hostility to the oppositional parties, the first anti-Communist political alliance that was established in late 1980s resembled the former League of Communists, because it was clearly shaped as an exclusive ideological (=anti-Communist) organisation based on the principle of democratic centralism. Different forms of "informal co-ordination" actually disqualified the parliament as the site of decision making and transformed it into a "transmission belt" of informal ruling political elites. As the president of the Parliament of the Republic of Slovenia argued, such an exclusive dichotomy was not accidental:

> *The socialist system from which the present society emerged is characterised by a total social atomisation. No intermediate levels exist between the individual and the top of society. A social structure simply does not exist. And the top is kept in place by the power in the hands of the Party. Consequently, the political struggle until today took place from the positions defined by the former regime: us or you. There is no room for both of them. Until now, we cannot speak of a genuine political pluralism (Bučar 1991, 20).*

In spite of political changes aimed at parliamentary democracy and political pluralism, all ruling coalitions, and even oppositional parties, until now tended to consolidate themselves in the way typical for the previous one-party systems. Non-democratic regimes always use external and internal threats and dangers as a means to obtain internal legitimisation; if no real threat exists, it must be invented. The "class enemy" invented by the former regimes in order to justify their "dictatorship of the proletariat," is now being replaced with new "enemies" — either with communists or the "enemies of the Nation," or both. Consequently, the state authorities and political parties were also resolute to maintain control over national (particularly television) broadcasting, regardless of their political lining, and despite their democratic rhetoric that praised freedom and independence of the media.

The Idea of Free and Democratic Media

Freedom of expression and the press is a constitutional right under the new Slovenian law. Article 39 of the Constitution of the Republic of Slovenia, that was adopted in 1991, guarantees the right to freedom of expression in the following terms:

> *Freedom of expression of thought, freedom of speech and public appearance, freedom of the press and other forms of public communication and expression shall be guaranteed. Everyone may freely gather, receive and impart news and opinions.*
>
> *Everyone has the right to get information of public nature, for which one has a legally grounded interest, except in the cases determined by the law.*

The new Slovenian Constitution conceptualises press freedom in the traditional liberal form by protecting the right of everyone to express and disseminate information and opinions, and to gather information from generally accessible sources. In addition, under the Constitution (Art. 40) and 1994 Mass Media Act (Arts. 9 to 23), any person or organisation "whose rights or interests have been affected by a statement in the media" — i.e., without having to demonstrate that, for example, the story was false or defamatory — is granted the right to publish a reply or correction free of charge.

However, the Article 6 of the Act permits the editor, or respective mass media organ, to refuse to publish a reply or correction, if it does not relate to the original story or it does not contain factual assertions; if it is libellous or otherwise unlawful; or if it refers to conclusive decisions of the court or other "appropriate authorities"; and for some formal reasons, e.g., the expiration of the time limit for submitting reply/correction (30 days).

The 1994 Act explicitly recognises the right of public access to government information and documents, except where access would affect the security and defence of the State, or if disclosure of information would impair law enforcement, personal privacy or commercial secrecy. "Classified matters" have to be defined by statutes, and the authorities have to explain in written form the reasons for having withheld information in eight days after such a request was issued by a journalist, and only a journalist (Art. 24).

On the other hand, the media have to publish, free of charge, factual statements by the public authorities upon their request, provided that they are urgent and that their rationale is to restrain threats to human lives and health, to State security and defence, or to the natural and cultural heritage. This, of course, could represent a dangerous possibility of a direct authoritative intervention into the media; there is not yet any legal practice that would establish the limitations to such possible state control.

Since the late 1980s, there has been a clear tendency towards pluralisation of the press in Slovenia as well as (some) other Yugoslav republics, although this tendency did not materialise in the number of newspapers, but only in the system of media management (with workers' councils and social management organs), a higher degree of social criticism in the media, and a more permissive judicial system, which however, still had at its disposal the famous Article 133 of the Yugoslav Penal Code sanctioning against an opinion offence.

Under the former self-management system, no legal restrictions existed on the right to publish newspapers (in contrast to broadcasting which was monopolised by the state or public service companies). Article 167 of the Yugoslav constitution stated

> *Citizens have the right to express and publish their opinions in media of public communication. ... Citizens, organisations and associations of citizens can under conditions established by law, publish newspapers and disseminate information through other media.*

However, this legal opportunity for individual citizens to publish newspapers never truly materialised in practice and, consequently, the newspapers reflected the pluralistic structure of the Yugoslav society only to a limited degree (Splichal 1990, 8-10). At the end of the 1980s, before the democratic changes, three daily newspapers were published in Slovenia, all of them closely connected with the Socialist Alliance and published by public enterprises. In early 1990s, in the very beginning of the political transition, three more dailies were set up as joint stock companies: ***Slovenske Novice*** (The Slovene News) as a clearly non-political popular tabloid, the conservatively oriented ***Slovenec*** (The Slovene), and left oriented ***Republika*** (The Republic).

Under the socialist regime, newspapers were controlled by the League of Communists and represented an instance of "societal ownership", but they often

received state subsidies. Their position changed radically after the revolutionary political changes in 1990. The press was left to its own resources and to the market-place almost overnight, but commercialisation (based on profit maximisation, and advertising as an essential source of income) and the suppression of governmental subsidies for newspapers and magazines did not cause such painful consequences as in some other Central and East European countries (particularly in Hungary and Poland), where many formerly subsidised newspapers could not survive without external financial assistance. Although the number of publications substantially increased during the early period of democratisation, it is likely that oligopolistic tendencies similar to those in Western Europe will prevail in the future. Only a limited number of small newspapers will probably survive, but they will remain marginal in terms of their social importance — similar to the "alternative" press in capitalist countries or "dissident" publications in the former socialist countries.

As in most other post-socialist countries, the printed press has made the most notable progress towards pluralisation. However, most papers are identified with different parties, thus continuing the tradition of an advocacy press rather than performing a watch-dog function. Only a smaller part of newspapers and magazines draw on Western business practice and try to achieve political independence and balance. On the other hand, the introduction of private commercial broadcasters did not really contribute to media variety and plurality for a very simple reason — they mostly rely on foreign entertainment programming or try to imitate it.

State responsibility for broadcasting was legitimised until the 1980s in terms of the political, educational and cultural importance of radio and television for society (and, of course, for the state itself). Apart from this, the former Yugoslav model of media organisation, that was based on self-management and was in a number of ways similar to public service broadcasting in Western Europe, raised several possibilities for active citizen participation. Similar to the press, however, they were far from an extensive implementation in practice.

After the political and economic changes in the late 1980s, Slovenian cultural institutions and the media came under a double attack of (re)nationalisation and commercialisation or "commercial Darwinism" (Poulsen 1990). Political elites are trying to use the media as power generators, but at the same time both the media and political elites are oriented towards the maximisation of profit because a capitalist market economy is seen as the only way to legitimise political changes. A neoliberal rhetoric of deregulated media and (economic) freedom of the press are championed on the ground that they are congruent with party political pluralism and parliamentary democracy, and that democratic requirements for more communication channels and media can be met only on market conditions. At the same time, however, the three channels of the national public television broadcasting system were renationalised and put under a direct control of political parties in the 1990-94 period.

In all the ex-Yugoslav republics, the former "self-management broadcasting acts" were abolished or changed to (re)establish the control of the state over radio and television organisations. While in the former self-management system, the right to participate in appointments to managing and editorial positions in the media was granted to media workers, the amended broadcasting acts in all Yugoslav republics

have abolished this workers' right and made it a privilege of either the government (e.g., in Serbia, Vojvodina, Kosovo, Croatia) or the parliament (as in Slovenia and Bosnia & Herzegovina). During that period, the Parliament of Yugoslav Journalists, which was established for a short period of time in 1990 in the then still existing federation, adopted a declaration which, among other things, requested that the director be elected by all the employees, and that the editor in chief should not be nominated without consent of the journalists; it protested against the transformation of the old monopolies over the press, radio and television into new ones; against the banning of newspapers and programmes; as well as against firing of journalists and editors' replacement on political, religious, ethnic or other non-professional grounds. Symptomatically, the Parliament of Journalists did not object against political parties on the grounds that they could not represent all (with the exception of journalists') societal interests in the media sphere.

Not surprisingly, then, the first legal intervention of the new party pluralistic parliament in 1990 into the media system was an amendment to the Law on Radio and Television Slovenia that stipulated a completely new structure for the former Assembly of Radio and Television Slovenia. While the former Assembly was designed, according to the law adopted in the spring of 1990 on the eve of political changes, to represent directly the whole societal structure (political parties representing only a part of it), the new Council was a typical political organ elected by the parliament. The post- (or even anti-)communist government did not hesitate to use paternalistic regulations and strategies, known in the period before self-management, to retain control over national broadcasting, particularly the appointments of members of the council and, indirectly, directors and editors. During a period of forty months, the Council of the Radio and Television Slovenia succeeded in politicising the national radio and television even more than they were politicised in the period of self-management. The experiment ended by the new Act on Radio and Television Slovenia (1994) that essentially reintroduced the idea of a direct representation of institutions and organisations of society (cultural, educational and scientific institutions, trade unions, churches, entrepreneurs, the two national minorities, and political parties) in the 25-member Council. But already at the constitutional meeting of the Council informal political divisions reappeared, and several political parties immediately utilised the opportunity to interfere.

This indicates that the primary concern of the government in drafting new media regulation was how to "protect" the State (government) rather than civil society, citizens and journalists. The most bizarre was the case of the first democratically elected government of Slovenia which "approached the USIS several times to ask for assistance in drafting legislation žto control the media'" (Stone and Marks 1991, 25). However, the vast majority of citizens strongly opposed these tendencies. A survey conducted in Slovenia in July 1990, when the government drafted a new press law that would actually legalise a kind of state censorship, 35.5 per cent among 606 interviewed citizens "absolutely opposed", 43.9 per cent "opposed" government or parliament control of the media, and only 7.9 per cent supported it (Delo, July 28, 1990). After strong public dissent supported by the media, the government revoked the draft law, but a few months later it resubmitted a slightly amended version of it, which again did not receive parliamentary support.

In practice, the policy of liberalisation applied, and still primarily applies, only to the press and local broadcasting. In the early 1990s, a number of local or regional private radio and TV stations were established, and a number of former local public radio stations were privatised. During the 1980s, over 200 radio stations in the former Yugoslavia produced close to 500,000 hours of programming per year; 70 percent of all radio broadcasting was transmitted by public local and regional stations, which had been created by specific groups of citizens, e.g., cultural organisations, national minorities, students, local political associations (the Socialist Alliance). But local radio never achieved the critical role or political significance which alternative print media had in the mid-1980s, when they contributed to the processes of democratisation in both the media sphere and society as a whole. The fundamental difference between the (alternative) print media and local/regional radio was that the later was, in that period, already largely commercialised. This could also explain why radio, although the most widely available of all the media, was subjected to relatively little political concern in comparison to the daily press and television.

As in many other republics of the former Yugoslavia, the first frequencies for private local TV broadcasters in Slovenia were allocated on the eve of the first democratic elections. However, in the former system, licensing of private broadcasting stations was limited because of political reluctance, and farther complicated by the parallel existence of federal and republic communications regulations by which broadcast companies were required to obtain frequency allocation from the federal authorities and broadcasting licence from their respective republic. (The same kind of parallel regulation existed in the CSFR in early 1990s before its split.) The new authorities hesitated to adopt new regulations. In Croatia, for example, the parliament adopted a new law on the media in April 1993, but it did not apply to broadcast media which are still regulated by the former "socialist" law.

Only in 1994 were specific provisions on commercial radio and television broadcasting adopted in Slovenia, but transmission facilities remained a unit of the national public service broadcasting company which may not release a part of them to its potential competitors. This was the case with Euro 3 TV company in 1991, under the former broadcasting law. In another case in 1992, the Council of Radio and Television Slovenia itself decided to establish the "third national channel" in co-operation with a number of privately owned local companies. According to the draft contracts, local companies should establish local TV stations as joint ventures with Television Slovenia (with 49 per cent of shares), and broadcast their programs only locally. However, such a monopoly did not materialise — not so much because of any legal "obstacle" or authoritative intervention, but primarily because of the lack of "local" production capacities and willingness of potential broadcasters to collaborate with the state controlled national system.

Channel A, the first private television station in the former Yugoslavia, was established as a joint-stock company by 150 share holders in 1989, but did not start to broadcast until May 1991. Its main founder was a private entrepreneur V. Polič with 63 per cent of founding capital. Apart from him, only Television Slovenia had a significant share (10 per cent) until 1994 when the British company Baring Communications Equity decided to invest in the station. Channel A started with a

Table I: Television Broadcasters and Programs Brodcast in Slovenia[1]

TV Programs	Broadcasters
NATIONAL	
Televizija Slovenija 1	Radiotelevizija Slovenija, Ljubljana
Televizija Slovenija 2	Radiotelevizija Slovenija, Ljubljana
TV 3	TV 3, Koper (Catholic broadcaster)
REGIONAL	
Televizija Koper	Radiotelevizija Slovenija, Ljubljana
Kanal A	Kanal A, Ljubljana
MMTV	Boutique MMTV, Ljubljana
LOCAL	
TV Adria[2]	Set, Portorož
Moj video[2]	Moj video
TV Primorska	Video Audi Film, Nova Gorica
TV Velenje[2]	VTV Studio, Velenje
Tele 59	Tele 59, Maribor
TV Železniki	Avac, Železniki
TV Sežana	Quadrum, Dutovlje
Kanal 10	Idea, Murska Sobota
Televizija Nova Gorica	Robin, Nova Gorica
ATM TV[2]	ATM elektronik
Vaš kanal	TV Novo mesto, Novo mesto
Euro 3TV	Euro 3 TV, Ljubljana
EXTERNAL PROGRAMS	
Croatian Television 1	Hrvatska Radiotelevizija, Zagreb
Croatian Television 2	Hrvatska Radiotelevizija, Zagreb
Hungarian Television	Hungarian Television, Budapest

1 Only three public channels owned by Radio-television Slovenia, Kanal A, and the three external programmes terrestrially distributed in Slovenia have been available to the audiences in Slovenia before the introduction of a multiparty political system.
2 Television companies which have acquired broadcast frequencies after the new Mass Media Act was adopted by the parliament (April 1994) and the members of the Broadcasting Council were nominated (May 1994).

short transmission period (some three hours daily) in prime time on its own channel, but not with its own transmission facilities. Rather, it had a contract with Radio and Television Slovenia, which enabled the channel to cover less than one third of the TV audience around the Slovenian capital. During a period of four years, its mainly entertainment programming extended to over 12 hours per day, and due to new transmitters its share in the audience pie increased as well. In 1994, another regional commercial TV station - MMTV - went on the air in Ljubljana. In 1995, the US company

CME which is owner of the Nova TV in the Czech Republic, established ProPlus company together with two Slovenian TV stations, MMTV and Tele 59 (Maribor). CME has a 58 per cent share which would not be possible if ProPlus were a television station. To avoid this restriction, ProPlus was not established as a TV station with its own frequencies, but rather as a production company to supply (and control) the two co-founding TV stations that already have been given transmission licences. Several other stations (see Table 1) were granted five-year broadcasting licences by the Department of Telecommunications at the Ministry of Transportation and Communication of Slovenia before the 1994 media law. Among them, TV 3 is the only TV station with national coverage. In a roundabout way, it was established by the Catholic Church of Slovenia; legally, the Church is not allowed, like political parties, to found broadcasting stations. Contrary to broadcasting, cable TV is not subject to licensing, but because of high installation costs it does not seem to be as attractive as broadcasting for either private or public investors, although there are some successful experiments.

New Legal and Institutional Media System

The present media legislation consists of the basic Mass Media Act and the special Act on Radio-television Slovenia as the central (public) broadcasting organisation in the country. It is based on the ongoing political and economic reforms since 1990 which attempt at developing a political and economic system compatible with the "standards" prevailing in the European Union. The missing link is the telecommunication law that should regulate, for example, the use of broadcasting frequencies, telecommunication services (which are under state control at present). It was drafted by the government in Summer 1994, but it is not likely that it will pass the parliament before 1996.

In contrast to the former socialist system, where the media were, at least indirectly, owned by the state and did not operate as economic enterprises in the strict sense, the 1994 Media Act sets forth specific rules regulating media ownership, including regulations that prohibit mergers. The Media Act forbids any person to operate a daily newspaper or news service and a broadcasting station simultaneously. It also prohibits multiple ownership of the media, whether print, news service, or broadcasting.

With the exception of the media with less than twenty employees, the Media Act allows individual persons and legal entities a maximum of 33-percent share in a joint stock company, registered for publishing the press, or producing and transmitting radio and television programmes. The share is limited to only ten per cent in the case that the share holder already holds shares in another communication company. Similarly, foreign investors are allowed to have a maximum of 33-percent share in a communication organisation, regardless of whether it is a private enterprise, share holding company, or a private non-profit organisation.

Furthermore, the Mass Media Act restrains the establishment of large companies that would acquire more than one half of the share in daily newspaper or broadcasting market. In order to ensure as much plurality and diversity as possible in the media market, the Act has a special feature in that one of its paragraphs provides that the establishment of a concern is subject to the clauses in the trade and industry

regulations (Art. 43). Specifically, the Act stipulates that before such a merger, the companies involved should notify it to the state authority for "the protection of free competition." In contrast to the former legal regulations, the new law does not forbid media enterprises to receive financial contributions from foreign sources, or to be owned or co-owned by non-Slovenian companies. However, there is as yet no evidence of a willingness of the authorities to provide public support to the media published or broadcast by minorities and groups not able to exercise their rights, for example in the forms of reduced taxes and postal and/or telephone charges, redistribution of advertising revenues or spectrum usage fees, subsidies and specific aids to newspapers to maintain a sufficient diversity and quality of newspapers and broadcast programmes as known in a number of West European countries.

The current media law departs from the former controversial registration provisions, according to which the media not only had to be registered with the Ministry of Information before they were published, but also had to enclose with the registration form an official "opinion of the Socialist Alliance." It was not clear, however, whether this requirement was only a formality or a favourable opinion was needed, but since there was no single case of Alliance's refusal to make its opinion in the 1980s, when the former regulation was in force, the question remains open for speculative meditations only. On this point, the new Act only provides that all media owners are required to make written registration with the appropriate State authorities, giving all the information necessary for the identification of the owner, the person responsible and the publisher, and the sort of media to be published. The press law does not allow the state authorities to annul the registration. In the same spirit, and in contrast to a number of European countries (e.g., France or Germany; see: Krippas 1982, 17), neither state executive nor judicial authorities are empowered to ban or suspend the dissemination or import of print or broadcast media.

The Mass Media Act retains the provisions of the former media regulation that recognise the right of any person offended by a published news story to demand that his/her written reply appear in the same publication or programme, or to request a correction of inaccurate reporting. A substantial section of the Act (Art. 9 to Art. 23) provides a detailed definition of procedures to make the two rights legally viable, which implies regulations on specific conditions to be met by the author of a correction or reply (e.g., the length of the reply/correction, a 30 day limit to send it to the editor, the content should not contravene legal regulations) as well as legal actions against the editor if he refused to publish a correction or reply.

In the former system, social management organs in communication companies were the key legal instrument for fulfilling the social interests in mass communication. They were composed of two separate groups of delegates representing (1) the employees of the media and (2) the community for whom the media were intended. The authority and functions of these social management organs were significant and quite often the Communist Party and the Socialist Alliance used them as a kind of transmission belt to influence editorial policy. Among the most important prerogatives of these organs were the appointment and recall of the director of communication company and the copy editors, except the editor-in-chief and the managing editor who were appointed directly by the founder (primarily the Socialist Alliance).

Since under the new constitution the media — with the exception of the national public broadcasting company — are privately owned, only journalists' participation in editorial policy and management remains a legally regulated issue. The publisher should appoint and recall the editor-in-chief, according to Art. 30 of the Media Act, after having received the opinion of the editorial board, which consists of editors and delegates of journalists. According to the law, a person owning more than ten per cent of the joint capital of the publishing company, or having more than ten per cent of management rights in the company, cannot be appointed an editor-in-chief. The editorial board is designed as a kind of safeguard of journalists' professional autonomy that should prevent the owner from radical changes in editorial policy without the consent of journalists (Art. 34), and from any penetration into the professional autonomy of journalists. To protect the autonomy of editors and journalists, the law stipulates that they

> *cannot be recalled, have their wages reduced, have their capacity in the editorial board changed, or their status decreased because of the presentation of their own points of view that are congruent with the general editorial policy and the code of ethics of journalists, or because of their refusal to publish information or opinion that breaches the editorial policy and the code of ethics (Art. 33).*

If compared with the former system, it seems that despite privatisation, one part of the former "social management organ" remains in power or even gains more influence on the media contents — the part consisting of media professionals. But the "interests of the broader community" disappeared, at least from the new legal regulations. It is another question, of course, what happened to these interests in the day-to-day practice of political parties and pressure groups.

Broadcasting: From State to the Market — or Political Parties?

Broadcasting is mainly regulated by two different Acts which passed, however, the parliament at the very same time (April 1994): Part Four of the Mass Media Act sets general principles pertaining to national, local non-commercial, and commercial broadcasting, defines the role of the national Broadcasting Council and regulates advertising on radio and television; the Act on Radio-television Slovenia defines primarily the activities of this public service broadcasting company and its management through the Council.

The Media Act differentiates three types of broadcasting channels ("programmes") in the following way:

(1) National radio and television broadcasting programmes are "generated by a public service institution set up by the law of the Republic of Slovenia" (Art. 45 of the Media Act).

(2) Non-commercial local programmes are intended to "inform audiences of one or more local communities on political, cultural, religious, economic and other questions that are important to their life and work" (Art. 46). There are four key conditions that discriminate the non-commercial from commercial channels: (a) at least forty percent of the total broadcasting time should consist of news, cultural, arts, and educational programming; (b) their own production should attain at least one hour of daily

programming (10 per cent in commercial stations); (c) advertising should not comprise more than 15 per cent of daily programming (or 20 per cent when "TV-sale" programmes are broadcast); the region to which local non-commercial station broadcast should not exceed one half of the state territory (no such limitation exists for commercial stations).

(3) Commercial channels are only required that their own production should comprise at least ten per cent of daily programming. Neither the ten per cent requirement in the case of commercial channels nor the one hour requirement in the case of non-commercial local channels seem to represent a very severe condition for local broadcasters. For example, the news programme on the national television channel — which is in statistical terms almost hundred per cent "own production" — represents close to ten per cent of daily programming (see Table 2).

Both commercial and non-commercial "local" companies may broadcast, according to the law, either radio or television programmes, but not both of them. This is expected to preserve external media plurality in broadcasting. Neither of them may broadcast nation-wide to facilitate the competition between the stations on the very small state territory with scarce audiences.

In practice, the principal difference between "local" (private) broadcasters and the public broadcasting company is not so much in the regulations, but more in the strictness of monitoring of the adherence of an individual station to the regulations. The channels of the public broadcasting company are systematically and effectively controlled by, and through, the Council of Radio and Television Slovenia as the supreme management organ of the company, and closely watched by political parties. In contrast, the Broadcasting Council as the regulative agency of the broadcasting industry was established only in July 1994, with the task to supervise broadcasting channels other than those of Radio-television Slovenia, and cable operators, and it has very limited possibilities for effective monitoring.

The Broadcasting Council is composed of eight members plus the president; all are elected by the parliament, four of them from among those proposed by the government and the other four plus the president by the parties in the parliament. Members and the president of the Council are elected for a period of five years, and they may be re-elected. To support the independence of the Council from party political, media and state pressures, the Mass Media Act does not allow higher civil servants employed in state authorities, members of the parliament, members of the government, leaders of political parties, or employees in broadcasting organisations to serve as members of the Broadcasting Council. The members of the Council cannot be employed in this position, neither do they have their own professional apparatus, which makes the feasibility of their tasks listed in the Mass Media Act dubious.

According to Art. 58 of the Media Act, the Broadcasting Council shall:

- protect freedom of communication, independence, openness and plurality of broadcasting programmes;
- control the operation of broadcasting stations and cable operators;
- supervise the congruity of local commercial and non-commercial programming with the law and international agreements Slovenia has endorsed;
- operationalise the criteria for determination of non-commercial channels;

- propose to appropriate authorities the allocation of frequencies;
- examine the principles of distribution of broadcasting frequency scales and frequencies;
- submit an annual state of the art report to the parliament on the development of broadcasting in the country, and proposals to improve it;
- perform other tasks determined by the law and the constituent act.

Apparently, the most important and powerful capacity of the Broadcasting Council is that of "proposing to appropriate authorities the allocation of frequencies". Although the Council does not make decisions on this issue, its role in the process is essential. As stipulated by the Media Act, "the right to use a broadcasting frequency is granted on the basis of a motion proposed by the Broadcasting Council, in congruence with the law that regulates telecommunications" (Art. 51). In practice, this means that the "appropriate authorities" (=the governmental office of telecommunications) only determine and control technical standards, while the Broadcasting Council determines programming related priorities when several bidders apply for the same frequency.

During the 1990-1993 period, i.e. before the establishment of the Broadcasting Council, when the former legal regulation of frequency allocation had been de facto nullified already, a moratorium on frequency allocation was introduced for only a short period of time. In 1992, the governmental office of telecommunications started to license frequencies and award franchises to newly established radio and television stations (see Table 1) without any publicly approved plan or explicit policy. When, in April 1994 the Act on the Mass Media finally passed the parliament, and three months later the Broadcasting Council was legally constituted, not many frequencies were left for the newcomers — both the new stations and the members of the newly constituted Council.

Although the situation of non-regulation actually favoured a chaotic development of private-commercial broadcasting, it essentially did not challenge the monopoly of public radio and television. Even political parties put much more of their energies into conquering the central national communication organisation — Radio-television Ljubljana, rather than to try to establish a new broadcasting organisation under their own direct control. (According to Art. 4 of the Mass Media Act, political parties, religious institutions, state authorities and voluntary associations cannot establish a broadcasting organisation, or have shares or managing rights in them. In practice, however, no control exists over whether broadcasting organisations comply with this legal provision.)

Since the first legislative intervention into the media sphere in 1990, when the supreme management organ of Radio-television Slovenia was put under the direct control of the parliamentary parties, the main controversies in political discussions concentrated on the structure and responsibilities of the Council of Radio-television Slovenia. Eventually, the parliament passed the Act on Radio-television Slovenia, which determined the principles of public service broadcasting, its finances and management.

Table 2: Output Structure of Television Programs on the First and Second National channel of Radio-television Slovenia in 1993

Program	First transmissions			Repeats	Total
	Own productions hours	Purchases& exchanges hours	Total first trans hours	hours	hours
Fiction	28	1408	1436	1285	2721
Light entertainment	356	35	391	277	688
Music	353	80	433	351	784
Sports	354	498	852	141	993
News	383	-	383	165	548
Information	856	181	1037	627	1664
Arts/Humanities	59	217	276	337	613
Education	50	22	72	96	168
Religion	31	7	38	25	63
TOTAL	2470	2448	4918	3304	8222

Radio-television Slovenia has six separate operating units: Radio Slovenia which operates three national channels in the Slovene language, Radio Maribor for regional programme in the North-East, Radio Koper/Capodistria with one regional programme in Italian and another in Slovene language, Television Slovenia with two national channels, Television Koper/Capodistria with a regional programme in the Italian and Slovene languages, and the Unit Transmitters which cares for the technical infrastructure for both the national public company and private broadcasters. In 1993, Television Slovenia transmitted 8,222 hours of programming on two channels. Its schedule contained 30 per cent own productions (primarily news and information), 30 per cent were purchased and 40 per cent repeats. If compared with national broadcasters in other small European countries, we find the percentage of own productions very low.

In the first period after the fall of socialism till 1993, RTV Slovenia could, and actually did, hinder the development of competitors, since all transmitting facilities were under its exclusive control, and the prices to rent them were determined on the monopoly basis. The Mass Media Act thus reformed the status of the Unit Transmitters: it is still a part of the national public broadcasting company, but it has a separate Audit Committee consisting of eight members; two are elected by RTV Slovenia, two by the government of Slovenia, two of them represent other radio organisations, and the last two members are delegated by other television organisations. Although it is the Council of Radio-television Slovenia that determines the broadcasting tariffs, private broadcasters are not in a commercially discriminatory position, because the tariffs are identical for all broadcasters, including Radio-television Slovenia, and the main task of the Audit Committee is to protect fairness and

the equality of broadcasters.

The Council of Radio-television Slovenia is the dominant organ of management of the national public service broadcasting company. The Council consists of 25 members, elected or appointed for a four-year term:

- five members appointed by the parliament to represent the interests of political parties, in proportion to the number of seats the parties have in the parliament; however, the members cannot be appointed from among the members of the parliament and state officials;
- one member appointed by the Italian national minority;
- one member appointed by the Hungarian national minority;
- fifteen members appointed by the following institutions and organisations of civil society:

(1) University of Ljubljana and University of Maribor,
(2) Slovene Academy of Science and Arts,
(3) Slovene Association of Film Producers,
(4) associations of Slovene musicians and composers,
(5) associations of writers and theatre artists,
(6) Association of Cultural Organisations of Slovenia,
(7) Association of Journalists of Slovenia,
(8) disabled persons,
(9) Union of Sports Organisations,
(10) Association of Employers,
(11) Co-operative Union and Farmers' Association,
(12) Co-ordination Committee of pensioners' organisations and parties,
(13) representative trade unions,
(14) Youth Council of Slovenia, and
(15) religious communities/organisations

- three members elected from among employees in Radio-television Slovenia by secret ballot, with the exception of those appointed by the Council (e.g., director general, editors-in-chief).

The key tasks and responsibilities of the Council are:

- to adopt the statutes of Radio-television Slovenia;
- to appoint the Director-General of RTV Slovenia, the directors of radio, television, and the Unit Transmitters and Communications, editors-in-chief, and one third of the members of the two programme councils for Italian and Hungarian minorities;
- to determine the licence fee (which has to be ratified by the government);
- to adopt the financial plan and balance-sheet; and
- to define programme standards.

The members of the Council are supposed to reflect the socially relevant groups of society in similar way as this is the case with German broadcasting councils, and in contrast to the former Council that mainly consisted of the representatives of political parties. Although normatively only five members have been directly elected from the major political parties, the Council is still strongly politically motivated. The main reason is that political parties succeeded in penetrating civic institutions and influenced the nomination of their representatives in the Council.

The second group of important interests involved in the management of the national broadcasting company is commercially based. According to the law, the

Radio-television Slovenia is a non-profit company financed by the licence fees, advertising, state subsidies, and "other activities" (Art. 14). In practice, an equal part of the income derives from licence fees and advertising. The endeavour to get a larger part of advertising pie and, thus, to maximise audiences is becoming dominant and, consequently, stimulates primarily the production of "light entertainment" programming and purchases of the same sort foreign (mostly US) programming.

The journalists who produce more than fifty per cent of company's own programming, represent the third distinctive group of interests, although they are not invulnerable to political influences. On the contrary, the journalists reproduced the very clear political polarisation of the Council in the 1990-94 period, although with a different motivation: they certainly did not aim at the restoration of a kind of "political commissariat" and dependence on political parties, but rather at an autonomous power-generating position. The quality and coherence of programming do not benefit from the junction of these three clusters of interests and influences, that often create conflicts and induce politicisation.

Conclusions

The new model of mass media in Slovenia largely favours the interests of political, commercial and professional elites and enables them to transmit their ideas, attitudes and instructions to the people. The media are often used as the battleground of party elites tending to maximise their political power and to change the political map. Alternative ideas favouring a genuine media plurality and professional autonomy are considered irrelevant and easily excluded. The dangers of exclusion of broader societal interests and those of marginal groups with limited or no financial resources, cultural homogenisation, and concentration of ownership, which are strengthened by a market-driven system, were largely neglected in the debates on media re-regulation and do not represent a part of the new media regulation. Not surprisingly, the restructuring of the Slovenian national public broadcasting system is aimed at establishing a national, politicised and commercial "public" broadcasting subordinated to the state authorities rather than to public accountability. Although the public service model is advocated for the national broadcaster, its is in practice neither non-commercial nor independent from the state and political parties.

It seems that the idea of public service media is once again used as a cover for a paternal communication system, where a high concern for people is based on the protective role of the media — in contrast to commercial systems which are characterised by a very low concern for recipients as recipients or users, and high concern for consumers whose consumption capacities can be sold to advertisers (Splichal 1994). Similarly to other media systems emerging in East-Central Europe, the Slovenian system has many features in common with the Italian system in the 1980s as characterised by Mancini (1991, 139): (1) The media are under definite state control, either directly, as in the case of national radio and television, or indirectly through various forms of "soft influence" (e.g. licences, political advertisements). (2) The degree of mass media partisanship is strong; the political parties are involved in editorial choices and the structure of the mass media. (3) Equally strong is the degree of integration of the media and political elites; for example, there is a strong professional

mobility between the worlds of politics and journalism. (4) There is no consolidated and shared professional ethics among media professionals. In addition, (5) the media are in a similar position to those in Italy in the 1980s because of the instability of political system, which represent a kind of "coalitional complex" consisting of a large number of ideologically divergent parliamentary parties. This is not to say, however, that no differences exist. Unlike in Italy, the media landscape in Slovenia is much less differentiated, and the commercial — particularly broadcasting — sector is far less developed, which is related both to the transitional nature of the ruling political coalitions and to severe economic difficulties. But here again, the Italian example of a rapid and largely unregulated development of the private television of Berlusconi may serve as a timely warning: not only because of its strict commercial orientation, which — as in other Western countries — challenged the traditional quality orientation of public television, but also because of its final de facto politicisation, when Berlusconi's party Forza Italia won the parliamentary elections in 1994.

Indeed, the questions of citizens' freedoms, democratic institutions, media autonomy, and the control of society over the state are no less relevant than in the late 1980s. What is now needed is to create a new kind of public service media which would be based on public funding and not controlled by the state or commercial interests, and characterised by high concern for production and for recipients as users who are defined and define themselves in terms of social and collective needs, in contrast to consumers who are defined in terms of privatised individual desires. Such a new public system certainly cannot be the only system; rather, it should compete with those developed by the state (paternal systems) and the market (commercial systems). But the fact that civil society would have its own communication system would make it less vulnerable than it is now, due to a portion of communication power it will gain and generate.

References:

Bučar, France. 1991. Novi politični zemljevid Slovenije. *Delo*, October 5: 20.

Krippas, G. 1982. European Press Law. In *Statutory Regulation and Self-regulation of the Press (Mass Media Files No 2), 8-50.* Strasbourg: Council of Europe.

Lazarsfeld, Paul. 1972. *Qualitative Analysis. Historical and Critical Essays.* Boston: Allyn and Bacon.

Mancini, Paolo 1991. The Public Sphere and the Use of News in a "Coalition" System of Government. In P. Dahlgreen, C. Sparks (ed.), *Communication and Citizenship*, 137-154. London: Routledge.

Poulsen, J. 1990. Between State and Market. Paper presented at the 17th conference of the International Association for Mass Communication Research, Bled, August 25-30, 1990.

Splichal, Slavko. 1990. Self-management and the Media. In T. McCormack (ed.), *Censorship and Libel: The Chilling Effect (Studies in Communication, Vol 4)*, 1-20. Greenwich, Conn: Jai Press.

Splichal, Slavko. 1991. Komunikacijske pravice in svobščine v slovenski demokraciji. *Teorija in praksa*, 5-6, 491-505.

Splichal, Slavko. 1994. *Media Beyond Socialism. Theory and Practice in East-Central Europe.* Boulder, Co: Westview.

Stone, Marvin L. and Leonard Marks. 1991. *Impediments to the Development of Free Media in Eastern Europe.* Washington, D.C.: The International Media Fund.

Williams, Raymond. 1976. *Communications.* Harmondsworth: Penguin (3rd edition).