

## Media in Croatia

Croatian media today, with a partial exception of the broadcasting sector, is to a large extent unregulated and subjected mostly to free-market rules. Overt pressure, harassment, economic extortion and arbitrary prosecutions, so characteristic for the former government (HDZ), are not longer visible. However, instead of overt pressure, journalists are more subjected to different types of censorship or self-censorship, reflecting interests of media owners in promoting their own political or business agenda.

Print media can be characterized, considering the size of the market, by a wide variety of daily newspapers. There are five daily national papers (in order of sold circulation: Vecernji List, Jutarnji List, Slobodna Dalmacija, Novi List, Vjesnik) plus daily papers with local/regional markets (in order of sold circulation: Glas Istre, Glas Slavonije, Zadarski List, Narodni List). Political diversity is almost guaranteed to continue, with no political sector left without a voice.

Readership base of left and central-left political orientation usually buys Jutarnji List (sold circulation of app. 65.000), Novi List (35-40.000), Glas Istre (20.000) and Vjesnik, a government-owned daily paper with an almost marginal circulation (5.000). Conservative and, in general terms, lower educated and older readership are more oriented toward Vecernji List (80-85.000) of right to center-right orientation. Glas Slavonije (Eastern Slavonia; circulation of about 12.000 copies) is another voice for center-right oriented readers. Slobodna Dalmacija has a very loyal audience (mostly Dalmatia, but also in capital Zagreb, where there are many students and professionals born in Dalmatia and interested in local news) and is more regional than politically left or right.

In contrast to the relatively numerous daily newspapers, the market share of political weeklies will probably shrink in the forthcoming period. Sales of political weeklies are declining and are now at half or even less-than-half compared to the mid and late 1990s. Globus is still the leading political weekly with about 40.000 sold copies; compared to 90-100.000 earlier. Nacional is second with about 30.000, compared to 60.000 few years ago. Feral Tribune is at about 20.000, compared to 50.000 in the 1990s.. All three major political weeklies are at the very edge of self-sustainability. Publishers of Globus and Nacional will find a way to save their publications, regardless of poor market results. However, the destiny of Feral Tribune is unclear. There are some indications of a rapid withdrawal of the Media Development Loan Fund from Feral, due to lower-than-expected market results. If that happens, the future of Feral Tribune would be questionable.

It is kind of specific of the Croatian print media market that all three major political weeklies have a center-left to radical-left position. Political weeklies with a right-wing orientation (Fokus, Hrvatski Tjednik) are marginal and without political influence.

Market niches are relatively well developed, considering the number of periodical publications (more than 900). However, most of the niche publications' circulation is concentrated in hands of one publisher (EPH/WAZ).

In general terms, circulation of all of print media outlets has dropped in last three to four years. One could say that the situation in late nineties, with a heavy politicized audience in expectation of substantial political changes, was an exceptional time. To a certain degree, that is true. However, diminished interest for politics is not the only reason for the drop in circulation. Other elements are: a lack of trust in the media, as the result of continuing rows between publishers and siding of publishers with certain political/business interests; sensationalistic approach, etc. The fact that circulation has dropped in other market niches (women weeklies, sport magazines, etc.) indicates other reasons as well. Namely, although statistics show an increase of average salaries compared to late nineties, the fact is that thanks to more favourable bank loans, almost two-thirds of households have a bank loan to pay, mostly for buying apartments, cars and other costly items. In many cases, loan payments consume more than half of the family budget; as a consequence, there is less money available for expenses beyond basic needs.

The ownership of major Croatian print media outlets shows a variety preventing monopolies. The biggest Croatian publisher, EPH (Europa Press Holding; publisher of Jutarnji List and Globus) is 49% owned by WestAllgemeine Zeitung. The biggest daily paper (Vecernji List) is 98% owned by the Austrian company Styria. Novi List and Glas Istre are 100% owned by employees; Slobodna Dalmacija and Vjesnik are still in Government's hands.

Aside the already mentioned decline of circulation and some forms of self censorship related to outlet's ownership structure, the biggest potential threat to the further development of print media sector results from so-called vertical integration. Namely, some of the biggest publishers (EPH, Vecernji List) control more than 50% of shares of Tisak, which is the biggest distribution network in Croatia. EPH also owns

100% of DistriPress, the distributor with a significant percentage of the market, mainly in larger cities. Although there haven't been any cases of discrimination against any publisher in distribution since early 2000, a dominant position in the distribution by one of group of publishers could result in unfair treatment of competitors. Therefore, this problem deserves additional attention of international community.

With more than 130 broadcasters currently airing their program to a potential audience of 4.2 million, Croatian radio is anything but a "monopoly". Although frequency's allocation (and related market share) inherited from the mid and late nineties could be still questionable (from the point of view of transparency and political affiliations), the current situation represents a fair distribution of power, coverage, market shares and political orientation of radio broadcasters. Foreign broadcasters (BBC, Voice of America, Deutsche Welle, RFE; in order of importance) are also broadcasting in Croatia, although with much smaller market share than local stations.

The biggest problem for radio broadcasters (aside from the small market) is the close relation with local governments. Local stations depend in many ways on local authorities – from receiving direct financial support, to using premises owned by them. This type of relation is a potential threat to fair and balanced reporting on local government's activities. An additional problem is less-than-needed advertising income, not enough to support a newsroom even by under minimal conditions. For that reason, most local stations are using national news agencies as their source, without proper coverage of local political and other events of the interest to their local audience.

The same goes for 13 local commercial TV stations in Croatia. Seven of them (members of the CCN network) broadcast respected and well-balanced TV news twice a day. CCN exchanges news items with their partners in Bosnia Herzegovina (Mreza Plus) and Serbia (B92) on a regular daily basis, providing the audience with political, business and other relevant news from the region. Coverage of local events remains a key problem.

Three years ago HTV, the state broadcaster, lost its monopoly position as the only national TV broadcaster. There is no debate on HTV's role in the nineties: strictly under governmental control, HTV was openly the ruling party's mouthpiece. That position changed profoundly since early 2000. Although still not a "public broadcaster" in the full sense of the word, HTV programming is in general terms well-balanced and reflects the entire spectrum of political views in Croatia.

Nova TV, a commercial national broadcaster on air since summer 2000, has not proven to be a real competitor to HTV. Aside from current problems regarding ownership structure and management (two different and rival groups claim control over Nova TV), the station has not been able to produce decent domestic programming, filling schedule mostly with foreign series and low-quality domestic production. In late 2002, TV Nova started to produce its own news programming (central daily TV news at seven p.m. and late TV news at 11-11:30 p.m.). Although surveys would show a relatively balanced coverage of different political parties, Nova TV's news production suffers from a somewhat biased approach, leaning openly to rightwing political views. Simultaneously, lower production and technical standards in Nova TV's news (compared to HTV) contributes to the dominant position of HTV in the news market. This may change rapidly, though.

The recent allocation of the third national network to HRTL (RTL Croatia) will most probably have substantial impact on the national TV scene. There is more than one reason that leads to this conclusion. Unlike Nova TV, RTL can meet any technical or production standards set by HTV and is probably capable of going well beyond it. Croatian companies that are in the HRTL consortium are well-established businesses with solid market and management reputation. HRTL has been working intensively in acquiring a serious journalistic and technical team for news production. The same goes for other domestically produced programming. HTV is, in short, about to get a serious competitor. To the benefit of the television audience, this will force HTV to be internally more efficient and professional and to raise its own journalistic and production standards.

There are no restrictions regarding access to foreign news sources. Foreign TV channels are available on satellite and on cable TV; all of the relevant foreign daily, weekly or periodical papers are available in kiosks or by subscription.

## **Media legislation**

### *Penal code, Article 203*

In June 2003, the Croatian Parliament has passed amendments to the Penal code including, among others, criminalization of defamation. Adoption of these amendments was against the recommendations of local and international professional organizations, against the recommendations of the Council of Europe and against the European standards. The Croatian Government could not claim that they had not

been informed about the matter and warned about the potential consequences: back in October 2002, as one of the conclusions of the International Conference on Defamation (Strasbourg), the Council of Europe sent a recommendation to all governments of countries in transition to decriminalize defamation for the period of at least five years. The Government of Croatia received similar warnings/ recommendations from local and international professional organizations as well.

The Government promised to review the amendments to the Penal code on the first parliamentary session after the summer break. This was the result not only of pressure from professional associations but also of the government's intention to avoid the case being brought to the Constitutional Court, which had been announced by opposition parties (the amendments had been confirmed by the parliament by a less-than-required majority of votes).

The Government prepared new amendments to the Penal Code in line with recommendations made by NGOs and international institutions, but the parliament failed to adopt these before its dissolution in October 2003). Therefore, the provisions from the Penal Code as amended in July 2003 are still effective.

In order to bring Croatian law into line with international standards, we therefore recommend that:

- insult and libel should be dealt with through the civil law rather than through criminal law;
- prison sentences for defamation and insult should be deleted from the law;
- defenses of truth and reasonable publication be recognized in Croatian jurisdiction;
- Articles 151 and 186 of the Penal Code, aimed at protecting the reputation of the Croatian state and national symbols, foreign states and international organizations, should be deleted from the law;
- Article 145 of the Penal Code, aimed at protecting state and military secrets, should be amended to include a harm test and public interest override, allowing for the publication of material which it is in the public interest to disclose;
- Article 322 of the Penal Code, which criminalizes the dissemination of "false and disturbing rumors", should be deleted from the law.

#### Law on Public Information (colloquially known as "Media Law")

There are different opinions within the professional community on the Law on Public Information. There are some undeniable improvements compared to the former legislation, but also some potentially serious setbacks to media freedom.

The key improvements are the provisions on public availability of the ownership's structure of media outlets and the antimonopoly and cross ownership provisions. Both should create more transparency and more diversity.

One of the key problems is the period of five years in which court cases can be brought against journalists/editors. Meaning, even five years after publishing of an article one could sue the papers or journalist for "emotional distress" or "defamation". This is simply too long; journalist cannot keep documents and sources used for writing an article for five years. CJA and MAC have suggested a period of up to six months from publishing article to the start of a case against journalist/editor.

A second problem is the limited access to information: the latest draft has defined that government and public officials have the right to deny access of "certain type of information" to the public. The definition "certain type of information" is too broad. CJA and MAC suggested defining it more precisely as "classified documents of utmost importance for national security".

Finally, an unclear definition of "monopoly position" could limit legitimate expansion of business activities.

#### Law on Electronic Media/Law on HRT

The Ministry of Culture (MoC) has accepted suggestion made by local media NGOs on writing a separate Law on Electronic Media, presented in the official form to government on a Conference on Electronic Media legislation in December 2002. Until the adoption of the new law, all provisions related to broadcast media were defined by the Telecommunications Law, which is mostly technically-oriented. The Law on Electronic Media as separate legislation ensures that all provisions and regulations regarding broadcasting become more transparent and detailed.

Key achievements/improvements in the law:

The Ministry of Culture has agreed to reallocate 3 percent of the mandatory fee (tax on radio and/or TV set) to a special fund for stimulating productions of public interest on private radio and TV stations. Until now, the entire fee was going directly to HRT. The estimated amount of 3 percent of the fee is 3.000.000 Euro. This reallocation will stimulate quality domestic productions and encourage owners of broadcast media outlets to employ journalists and other professionals. In return, a new and more competitive market for TV journalists and other professionals will be created.

The law equalizes the position of domestic and foreign ownership over broadcast media. Until now, foreign ownership was limited to 33 percent. This was a major obstacle for serious foreign investors to invest in Croatian electronic media and stimulated different types of manipulations over the ownership structure of broadcast media outlets. This provision should make (foreign) ownership transparent and legal.

Government institutions and public companies are obliged to spend at least 15% of their respective advertise budgets with local electronic media outlets. Until now, the whole budget for advertising/promotional campaign of government and public owned companies has been reserved for HRT as a kind of hidden subsidy to the public broadcaster. The Government of Croatia is a big advertiser (campaign for the tourist season; campaign for security in traffic; campaign to prevent fire; campaign to save water and electricity; campaign for the Military and police schools, etc.)

HRT will be monitored by the authorized institutions for any potential breach of the regulations (minutes of allowed advertising per hour; broadcasting of "one and the same programming on the whole area of coverage" as defined by the law, etc.) Until now, HRT violates these provisions almost on a daily basis but was not subjected to official monitoring nor sanctioned for breaching the rules.

There are also concerns about the law on electronic media. Importantly, there is concern about the constitution and composition of the Council for Electronic Media (formerly known as Council for Radio and TV), which is responsible for frequency allocations. The new Law stipulates that the Government (more precisely: the Ministry of Culture) selects the names of the Council's members and then sends the list to Parliament for adoption. It is on the Government to decide whether to give civil society a voice in that procedure or not. The current solution potentially gives the Government too much power and influence on what should be an independent regulatory body. This should be changed in order to give the civil sector (universities, NGO's) a more decisive position in appointing members of the Council.

The same objection applies to Law on HRT. The current Law on HRT gives too strong a position to political parties in selecting and appointing members of the governing Council of HRT. Therefore, the composition of the Council is the result of bargaining between political parties, rather than a selection of qualified representatives of the public interest.

The suggestion is to change both the Law on Electronic Media and the Law on HRT regarding the election and composition of two the Councils. Solutions should be adopted as was defined in previous legislation, with institutions of civil society appointing Council's members directly.

#### Conclusion on media legislation

The government of Croatia has failed to prove its full efficiency and willingness in adopting/amending legislations in line with European standards. Tense relations within Government's coalition partners further complicates the decision making process, which often results in compromises that seriously affect initial intentions of experts and civil society. One should not expect a different attitude from new administrations.

The status of some of the adopted legislation (Media Law) is questionable, due to the breach of Parliaments bylaws in its adoption. An official request for reviewing of the Media Law has been filed with the Constitutional Court. This could result with complete annulations of the Law or with restarting the whole legislative procedure.

Therefore, local institutions of civil society and the NGO sector would need continued and additional support from the international community, political institutions and professional organizations in introducing/implementing legislation in line with European standards.

#### **Level of professionalism**

A general feeling in Croatia is that the level of professionalism has declined since late nineties. To a certain extent that is true, but it deserves explanation.

Formerly government controlled media outlets have been relatively successful in transforming themselves from pure propaganda mouthpieces to publications with a still recognizable political orientation, but with higher level of professionalism without hate speech and political harassment. This applies particularly to Vecernji List, the daily with the highest circulation. It applies to HTV and its journalistic standards as well. It would be too early to conclude that these media outlets have achieved the highest professional standards, but certain improvement (at least in cutting-off blatant forms of hate speech and political servility) cannot be denied.

Deterioration of professional standards is more visible in what we used to call "independent media". Partially, this is the result of a "mission accomplished" syndrome: the collapse of Tudjman's regime

meant an end to substantial donors' support and independent media outlets found themselves at the mercy of market rules. Living for years with energy directed only to paper's content and generously subsidized by donors, many of them were unprepared to face the new environment. Some of the weekly papers from this group tried to redefine themselves as newsmagazines, without tangible results. The others have shown a tendency towards sensationalism, improving their circulation somewhat (or preventing to a certain degree a dramatic collapse) but seriously affecting professional standards. Generally, a decline in circulation and a lack of almost any foreign financial support resulted in more sensationalism and less investigative stories.

A problem of its own is the visible tendency of publishers and owners to use their publications to promote their own agenda. Not necessarily political. Bigger publishers combine a business and political agenda, siding not so much with political parties as with different networks of business and political lobbies. This problem, certainly, represents a potential threat to media independence, replacing to some extent the former overt pressures on journalist from the political top. Very tense relations between some of the most influential publishers in Croatia contributes to an artificial division between journalist, based on "for whom they work", not on performed professional skills and standards.

Lack of professional skills affects particularly local media, both print and broadcasters. Local media have an irreplaceable role in supplying local audiences with news not available otherwise. Most of them have a strong position and in some cases a very high penetration rate (for example, the daily Glas Istre is bought by almost 60% of the households in Istria). However, their common problem is a lack of trained and professional journalists. Local papers suffer from brain-drain (skilled or more experienced journalists are more likely to go to "bigger" national papers or, more often, to local correspondence offices of nationwide papers, attracted by better salaries and higher social standing) and, in case of broadcast media, lack of money to support efficient newsrooms. Also, different types of formal or informal relations with local authorities (in some cases direct financial support; in most cases favorable monthly rents for using premises) result in biased coverage of local authorities.

Despite certain progress made by the Faculty of Journalism in the past years, journalism students do not get enough practical training. CJA has a national education center in Opatija, where meetings and workshops are organized almost every week.

Serious attempts have been undertaken recently to improve investigative reporting in the region and to encourage regional media projects. CJA and IREX ProMedia have started a series of workshops/trainings for investigative journalists. IREX is about to launch a web site which should be functioning as an information/exchange pool for investigative reporters in the region. After a successful project of exchanging news items between TV networks in Croatia (CCN), Serbia (B92) and Bosnia Herzegovina (Mreza Plus) and reporting from ICTY, networks will cooperate in production of documentaries on organized crime in the region as well as in producing regional business weekly TV magazine. All of these projects should improve the level of domestic production and skills as well.

### **Associations/watchdog organizations**

Croatia is the only country in Southeast Europe with only one association of professional journalist, the Croatian Journalist Association (CJA; HND is the local acronym). During the nineties, the CJA played an irreplaceable role in defending media freedom. In the later stage of Tudjman's regime, its role was more focused on introducing and implementing advanced professional standards. Within the new political climate after the elections in December 1999/January 2000, CJA is redefining its role from that of a partially political organization to a strictly professional association. This process will take time and will probably meet certain resistance within the institution itself.

CJA has been actively working on preparing, drafting and lobbying for media and media related legislation. That includes sub-legislations as well and defining other important elements for the status of journalism as a profession (social and health insurance, pension funds, status of free-lancers, etc).

Due to divisions between rival and often hostile publishers, CJA has experienced difficulties in implementing an otherwise good Code of Ethic. A non-partisan position is of essential importance for CJA's professional reputation, but more and more limits the Association in daily activities and overall influence.

The Journalism Trade Union is relatively strong institution, working closely with CJA and dealing mostly with employment law. Both the CJA and the Trade Union are relatively good in comparison with organization in other countries in Southeast Europe. They maintain good relations with counterpart organizations in the EU and often offer expertise and other support to professional associations in the region.

The Journalism Trade Union has been actively involved in drafting and implementing labor agreements. Currently, the labor agreements apply only to major nationwide publishers. However, the union and CJA are working on a national collective agreement that applies to all media outlets. This would be an important achievement.

Both institutions are to a certain degree financially self-sustainable. CJA covers its basic expenses thanks to membership fee and income from renting office space in its building in down-town Zagreb. The Union lives exclusively on Union's fee.

A special position among the watchdog organizations is taken by the Croatian Helsinki Committee, due to its long and uncompromised history.

### **Activities of donors/international organizations**

International donors played a very important role in developing and diversifying the media scene in Croatia, especially in the mid and late nineties. There were times in which donors' money was of essential importance to keep alive some of the then most important voices of civil society (Radio 101, Zagreb; Feral Tribune, Split). Without that support, survival of these outlets would probably have been impossible. It would be very hard to measure the overall impact of these outlets (meaning also: of donors' support) as obvious agents of changing the political and social climate in Croatia. Their real contribution goes beyond pure figures on circulation or audience.

There were, of course, examples of shortsighted support to certain media outlets based only on well-written applications, not on their real importance for development of civil society. There have been many examples of lack of coordination between donors', affection for "pet" projects, etc. However, this could and should not overshadow the crucially important results achieved with the help of international donors.

Most of the international donors have seriously downsized their budgets for Croatia almost immediately after the elections in December 1999/January 2000. That was too early for many of the independent media, which were not capable of making a smooth transition from the "content only" approach characteristic for the nineties to the full-scale market oriented approach required after 2000. Many of them were simply not prepared to accept the new environment in which advertising departments became increasingly important. Many of them were not capable to sell advertising at all.

Considering the political and media situation in Croatia (regardless of the outcome of forthcoming elections) one could not justify direct financial support to new media projects any more. It is highly questionable whether currently existing projects deserve to be financially supported, regardless of their past. Generally, it is not likely that one-term financial support can change any unfavorable market position of individual media outlets. Direct financial support could be justified only in cases when media outlets offer additional information that is otherwise not-available to public/audience.

The same (continuing support, if possible) applies to projects promoting cooperation and free flow of information within the region. Such projects should be treated very carefully and hesitantly in order to avoid falling into traps of well-written proposals without real content.

Additional donors support is still needed in training and drafting/implementing media legislation. Training should be focused on specific issues (like investigative reporting, or trainings of journalists covering specific areas like judiciary and crime, economic reporting, local government; training for helping journalist to address specific problems like return of the refugees, etc) rather than on a general level ("the role of media in democracy", etc). The best would be to include well-known local trainer (better known to participants, no language barrier, more flexible, less expensive than foreign experts) and specific training target (for example, returning of refugees, economic reporting, etc). Training is especially needed for journalists in local media outlets. On-site training is usually more efficient than workshops in remote resorts.

A combination of donors' support and political pressure is still needed in drafting and implementing media legislation. Recent events (drafting Law on HTV, Law on Electronic Media, amendments to Penal Code, Media Law, etc) have shown that Croatia has yet to adopt better standards in that regard.

### ***Report by the Media Working Group in Croatia, November 2003***