

MAPPING DIGITAL MEDIA: POLAND



Mapping Digital Media: Poland

A REPORT BY THE OPEN SOCIETY FOUNDATIONS

WRITTEN BY

Andrzej Krajewski and Karim Diakite (reporters)

EDITED BY

Marius Dragomir and Mark Thompson (Open Society Media Program editors)

Magda Walter (Regional editor)

EDITORIAL COMMISSION

Yuen-Ying Chan, Christian S. Nissen, Dušan Reljić, Russell Southwood,
Michael Starks, Damian Tambini

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OPEN SOCIETY MEDIA PROGRAM TEAM

Mejjinder Kaur, program assistant; Morris Lipson, senior legal advisor;
and Gordana Jankovic, director

OPEN SOCIETY INFORMATION PROGRAM TEAM

Vera Franz, senior program manager; Darius Cuplinskas, director

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Mapping Digital Media

The values that underpin good journalism, the need of citizens for reliable and abundant information, and the importance of such information for a healthy society and a robust democracy: these are perennial, and provide compass-bearings for anyone trying to make sense of current changes across the media landscape.

The standards in the profession are in the process of being set. Most of the effects on journalism imposed by new technology are shaped in the most developed societies, but these changes are equally influencing the media in less developed societies.

The **Mapping Digital Media** project, which examines the changes in-depth, aims to build bridges between researchers and policymakers, activists, academics and standard-setters across the world. It also builds policy capacity in countries where this is less developed, encouraging stakeholders to participate and influence change. At the same time, this research creates a knowledge base, laying foundations for advocacy work, building capacity and enhancing debate.

The Media Program of the Open Society Foundations has seen how changes and continuity affect the media in different places, redefining the way they can operate sustainably while staying true to values of pluralism and diversity, transparency and accountability, editorial independence, freedom of expression and information, public service, and high professional standards.

The Mapping Digital Media project assesses, in the light of these values, the global opportunities and risks that are created for media by the following developments:

- the switch-over from analog broadcasting to digital broadcasting;
- growth of new media platforms as sources of news;
- convergence of traditional broadcasting with telecommunications.

Covering 60 countries, the project examines how these changes affect the core democratic service that any media system should provide—news about political, economic and social affairs.

The **Mapping Digital Media** reports are produced by local researchers and partner organizations in each country. Cumulatively, these reports will provide a much-needed resource on the democratic role of digital media.

In addition to the country reports, the Open Society Media Program has commissioned research papers on a range of topics related to digital media. These papers are published as the **MDM Reference Series**.

Mapping Digital Media: Poland

Executive Summary

Digital switch-over of terrestrial broadcasting in Poland may still be almost a year away, but the lead-up and preparations to it have shed light on the most entrenched problems facing the country's public service broadcasters.

This study of the impact of digitization on Polish media highlights the delays in digitization caused by political infighting; the lack of technical and financial assistance to ensure that the most vulnerable members of society benefit from digitization and new media; and the funding crisis afflicting public broadcasting.

The political and economic position of the public broadcaster is critical in the digitization of broadcasting in Poland, both because of its continued—albeit diminishing—role in the media market, and because of its extensive involvement in the preparations for the switch-over.

The entire digitization process has been severely delayed by disagreements between regulators and broadcasters, with Poland becoming one of the few EU countries that had not started digital broadcasting by late 2010. Polish Television (*Telewizja Polska*, TVP) launched a digital service in selected regions in October of that year. It took almost another year for parliament to reach agreement on the digitization bill itself, which was passed and signed in summer 2011 and which experts believe is insufficiently comprehensive and will need further elaboration.

Spectrum allocation, while not massively politicized, has been insufficiently transparent and this has led to decisions being frequently challenged by both public and private broadcasters. This may have resulted in fewer new channels being awarded slots on multiplexes than was optimal both in the public interest and for greater plurality and diversity of news resources.

After years of declining license fee payments, funding for public broadcasting is in crisis, and any proposed alternative schemes get mired in political in-fighting. In addition, the current government does not see public broadcasting funding as a policy priority, which in turn slows down the preparations for digitization.

During TVP's transition from a state-controlled government broadcaster, appointments to the board were made according to formulas negotiated among the country's main political forces. Since 2009, TVP has been run by a board the members of which were allied to the two main opposition parties; in 2011, the balance of power changed with the appointment of a TVP president affiliated with the ruling Civic Platform (*Platforma Obywatelska*, PO) party.

These political loyalties at the top cascade down into all key appointments, and are reflected in the poor quality and bias of the content, particularly in news and current affairs. This state of affairs has been seen by the media, opinion makers, and the general public as unacceptable, detrimental to the quality of TVP's services, and incompatible with the role of public service media. As a result, the public rejects—in increasing numbers—the obligation to pay a license fee; the government lacks a robust mechanism to enforce this obligation; and civil society and professional associations fail to propose workable alternatives.

A steep increase in internet penetration and computer use led to changes in news consumption and delivery, as well as in the public perception of what news is. Television remains the main source of news. However, the proportion of people getting their news from the internet was the third largest by 2010, just behind radio. In the television market, minor players gained viewers, enhancing the plurality and diversity of available news sources. The popularity of daily papers declined, although many consumers stayed with established titles but moved to their online editions instead.

The number of providers on news online multiplied as stand-alone news portals and major traditional media websites were started or grew rapidly. Social networks and the speed of news delivery by the internet have propelled this already mature media market squarely into the digital age.

This has led, as in many other countries, to growing tabloidization and sensationalism of journalism content. But the decline in quality of serious news and analysis has been much sharper at the public TVP than at its commercial competitors.

In keeping with wider trends, the internet has changed Polish journalists' work techniques, schedules and tools. The internet is treated increasingly as a primary source, which encourages the publication of inaccurate and unreliable information. Among internet sources for journalists, the role of social networks has increased, although not so much for breaking news stories as for gossip and scandal generated by users, who reveal mountains of personal data on their profiles and on Twitter. User-generated content (UGC) has become a constant element of 24-hour television news, supplying information and images impossible to obtain otherwise.

Writing copy, especially headlines, that is driven by search engine requirements has turned editing upside down. Newsworthiness no longer determines the headline, but rather an item's "searchability," which often dilutes a story's focus, and makes a headline more literal than clever.

Many Polish journalists interviewed for this report lament the decline of journalistic standards and ethics, driven by the speed of publication and the ease of finding information online without properly sourcing it. This decline is particularly stark, given that these standards were only introduced a little over two decades ago, after Poland's democratic transition.

Internet activism and fundraising for social causes are quite advanced, but with the demographic profile of the average internet user varying significantly from that of the general public, these actions have limited impact on society as a whole. However, protests against the ACTA protocol in January 2012 moved from the virtual space to the street, which may mark a new era in Polish digital activism and its reach.

Another campaign which mobilized a mass response of 100,000 "fans" was the Facebook "Day without Smolensk" campaign, which called for one day to pass without any mention of the plane crash that killed the Polish president and his team in April 2010. (This tragic incident continues to obsess Polish media and politicians and has provided ammunition for all political players, the center-right and right-wing opposition parties in particular.) Generally, however, such actions only reach critical mass, and achieve political impact, when they spill onto the streets or into mainstream offline media.

The internet has opened up space for expression for a whole range of marginalized groups, such as ethnic and religious minorities and the handicapped, but also for those who wish to attack them with hate speech. Foreign Minister Radek Sikorski created a precedent in 2010 by challenging hate speech through legal action, forcing internet forums with offensive content on Fakt.pl, the largest tabloid daily's website, to be shut down temporarily, in an attempt to raise awareness and stimulate debate on the balance between freedom of expression and freedom from hate speech.

On the business front, digitization opened space in a media market that had been stagnant for years. Initially, this opening was seized by an oligopoly of dominant broadcasters, which managed to reserve the bulk of spectrum on available multiplexes. Those early imbalances were corrected by reshuffling the available slots. The growth of mobile television is expected to expand and diversify the market much further.

Of course, the quest for sustainable funding models does not only concern the public broadcaster; it was also at the heart of a major regulatory controversy in this fiercely Roman Catholic country, involving the right of a religious TV channel, TV Trwam, to gain a slot on a digital multiplex. This episode revealed a possible loophole in the spectrum allocation process.

The channel was denied a slot in the tender because of inadequate business plans presented to the regulator. It was classified as a commercial channel even though it relies on donations. The report's authors suggest there may be room for a third category, neither public nor commercial, but what they call "social" or community channels, of which TV Trwam would be one.

Poland's electronic media market would benefit from increased competition. The absence of legal restrictions on media concentration and cross-ownership is a major regulatory shortcoming. There is evidence that

digitization has made the two regulatory authorities, UKE and KRRiT, more aware of the need for greater competition, and they have pledged to enact stricter controls in the digital environment, and to enforce existing controls more vigorously than they did in the analog era.

The authors of this report assess that the initiatives to inform the public about how digitization will affect them have been insufficient, and also that, as mentioned above, the provisions to ensure that the most vulnerable in society—the poor, disabled and elderly—will be able to afford and take full advantage of the switchover are inadequate. Appropriate provisions should swiftly be put in place.

Other major recommendations include a revision of spectrum allocation criteria to improve access for those “third way” broadcasters such as religious, educational, civil society or local government outlets, and the need for a durable solution to the public broadcasting funding crisis.

Context

Poland ranks sixth among the most populous EU countries, with 38 million inhabitants and 13.7 million households. Of these, 61 percent live in cities. Poland is considered a comparatively homogenous country in terms of ethnic composition. The vast majority (96 percent) of society consider themselves Polish. The linguistic composition of the country mirrors its ethnic homogeneity. Over 96 percent of Polish citizens consider Polish to be their first language. Since the end of the Second World War, when the borders of the country were moved to the west, leaving Ukrainians, Belarusians and Lithuanians behind them, and the majority of the Jewish population having perished in Holocaust or emigrated, Poland has been predominantly Roman Catholic.

Poland is considered a dynamically developing country and recorded robust growth throughout the period of 2005–2010. Poland was among the very few countries that avoided negative growth during the recession of 2008 and 2009. The decline between the years 2008 and 2009 shown in the economic summary table should be entirely attributed to exchange rate changes, since the Polish currency, the zloty, has depreciated significantly (by 63.6 percent in relation to US Dollar in the period of August 2008–February 2009).

Prices have been stable since the early 2000s. The Consumer Price Index (CPI) has been reduced systematically throughout the 1990s, from the skyrocketing level of 600 percent in 1989. The last double-digit inflation rate was recorded in 2000. The unemployment rate has also significantly declined since 2005; in 2010 it approached 10 percent. Nevertheless, Poland is among the countries with the lowest labor force participation rate; the employment rate among the population aged 20–64 is only 64.6 percent.

The prospects for 2012 are mixed: according to the European Bank of Reconstruction and Development (EBRD), GDP growth will slow to 2.2 percent (after 3.7 percent in 2011). Apart from the expected slowdown of the European economy, this would result from austerity measures; the Polish government has pledged to reduce the public deficit from 7.9 percent in 2010 to 2.9 percent in 2012.¹

¹ “Europejski Bank Odbudowy i Rozwoju tnie prognozy dla Polski” (European Bank of Reconstruction and Development cuts forecasts for Poland), *Gazeta Wyborcza*, 19 October 2011, p. 26.

Social Composition Indicators

Population (number of inhabitants): 8.5 million

Number of households: 13.7 million

Figure 1.

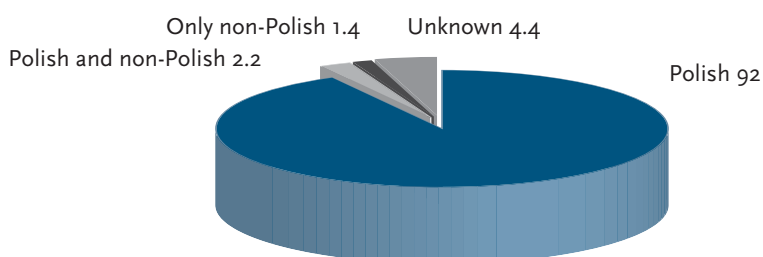
Rural–urban breakdown (% of total population), 2011



Source: Results of 2011 census, http://www.stat.gov.pl/cps/rde/xbcr/gus/PUBL_lu_nps2011_wyniki_nsp2011_22032012.pdf, accessed 11 June 2012

Figure 2.

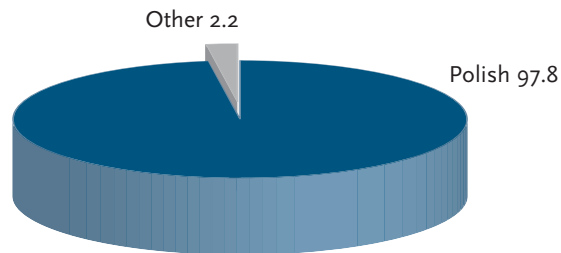
Ethnic composition (% of total population), 2011



Source: http://www.stat.gov.pl/cps/rde/xbcr/gus/PUBL_lu_nps2011_wyniki_nsp2011_22032012.pdf, accessed 11 June 2012

In the 2011 census, exclusively Polish nationality was declared by 92 percent of inhabitants, Polish and non-Polish nationality—by 2.2 percent, only non-Polish nationality—1.4 percent. Nationality of 4.4 percent remained unknown, due to their absence from the country for over 12 months. Non-Polish nationality includes German, Silesian, Kashubian, Belarusian, Ukrainian and Romani.

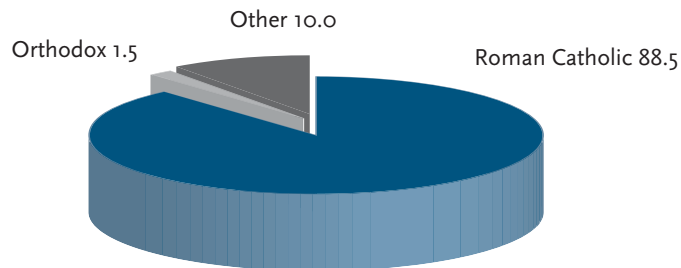
Figure 3.
Linguistic composition (% of total population), 2002



Note: “Other” includes German, Silesian, Kashubian, Belarusian, Ukrainian and Romani.

Source: Central Statistical Office, *Polish Census of 2002*, Warsaw, 2002, see: http://www.stat.gov.pl/lodz/37_PLK_HTML.htm and <http://demografia.stat.gov.pl/bazademografia/NSP2002.aspx>

Figure 4.
Religious composition (% of total population)



Source: Central Statistical Office, *Publication on denominations and ethnic organizations existing and acting in Poland*, Warsaw, 2006–2008

Economic Indicators

Table 1.
Economic indicators

	2005	2006	2007	2008	2009	2010	2011o	2012f
GDP (current prices), in US\$ billion	303.98	341.67	425.32	529.40	430.74	438.88	468.82	503.41
GDP (current prices), per capita in US\$	7,965	8,958	11,157	13,887	11,302	11,522	12,313	13,222
Gross National Income (GNI), (current \$), per head	13,520	14,680	16,160	17,690	18,260	19,060	n/a	n/a
Unemployment (% of total labor force)	17.7	13.8	9.6	7.1	8.1	9.6	9.4	9.2
Inflation (average annual rate in % against previous year)	2.1	1.0	2.4	4.2	3.4	2.4	2.6	2.9

Notes: o: outlook; f: forecast; n/a: not available

Sources: International Monetary Fund (IMF), for GDP, unemployment and inflation and World Bank for GNI

1. Media Consumption: The Digital Factor

1.1 Digital Take-up

1.1.1 Digital Equipment

Since 2005, no significant change has been recorded in television set ownership. The vast majority of households (98.5 percent in 2009) own a television set, but only about two million out of 20 million television sets installed in Poland are digital ready. It does not mean 90 percent of them must be exchanged, because of the high popularity of cable and satellite television, but experts agree that up to three million television sets will have to be exchanged or upgraded through the installation of set-top boxes (STB).² According to the digitization law, adopted on 30 June 2011, the sellers are obliged to inform consumers whether television sets and STBs are indeed digital ready; if they are not, the buyer has to confirm that they know that in writing.

The growth in PC ownership has been significant in the years 2005–2010; the share of households using a PC has grown by 57 percent. The share of households with internet access has risen rapidly as well, nearly doubling between 2005 and 2009. The expansion of internet access was much faster than that of PC ownership. In 2005, roughly 70 percent of PC users had internet access. In 2009 this share amounted to roughly 85 percent. More than one-third (35.2 percent) of Poles use the internet only at home and barely 3.3 percent report that they use it only at work. Only 10.6 percent of users have it both at home and at work.³

Although the rate of internet and PC usage has grown rapidly in recent years, still more than 30 percent of Poles do not own a computer, and more than 40 percent have no access to the internet. There is no doubt that the television set has been the primary source of news for the majority of Poles; however, its advantage over a PC with an internet connection has been decreasing. The internet is about to beat radio as a secondary

2 Grzegorz Osiecki, “Na telewizję cyfrową wydamy 2 mld zł” (We will spend 2bn zlotys on digital television), *Dziennik Gazeta Prawna*, 2 March 2011, p. A7.

3 Central Statistical Office, *Concise Statistical Yearbooks for the years 2005–2010*, Warsaw, 2010.

source of news; but to surpass television to become the primary news provider, the internet needs a few more years of expansion.

About 13 million working Poles do not use the internet. The relatively high digital exclusion is mostly linked to age. Among the young generation (18–24), PC and internet usage is as high as 85 percent. It decreases systematically with age; among 13 million Poles over 50 years old, over 10 million (78 percent) do not use the internet; in the age group of 65+, the rate of internet users is drops to only 6 percent.

Other determinants of digital exclusion are:

- **education:** the majority of Polish citizens with a university education use a PC and the internet (89 percent); among people with basic education (primary school graduate or lower) that rate is only 21.5 percent;
- **domicile:** rural populations have the highest rate of digital exclusion. In the urban areas, the larger the city, the more people use the internet and a PC/notebook;
- **profession:** the vast majority of professionals in management positions use the PC and internet (92 percent). Pensioners have the highest rate of digital exclusion.

Digital exclusion is also strongly correlated with social exclusion. The groups with the highest rates of digital exclusion are those in the lowest socio-economic groups. In this context, the biggest obstacle to digitization may be its social cost. Overall, 10.5 percent of Poles declare that they can neither afford a new television set compliant with the DVB-T MPEG 4 standard, nor can they purchase a set-top-box, allowing reception of a digital television signal without purchasing a new television set. This proportion is even higher in the lowest socio-economic groups (up to 20 percent).⁴

Table 2.
Households owning equipment in Poland, 2005–2010

	2005		2006		2007		2008		2009		2010	
	No. of HH (million)	% of THH ¹²	No. of HH (million)	% of THH	No. of HH (million)	% of THH	No. of HH (million)	% of THH	No. of HH (million)	% of THH	No. of HH (million)	% of THH
TV set	13.6	98.2	13.7	98.5	13.5	98.5	13.5	98.5	13.5	98.5	n/a	98.5
Radio set	8.0	57.5	8.3	59.4	7.9	57.5	n/a	n/a	n/a	n/a	n/a	n/a
PC	5.4	38.6	6.1	43.7	6.9	50.1	7.7	56.4	8.3	60.8	n/a	64.9
– of which with internet access	3.1	22.5	3.9	28.4	5.0	36.6	6.3	45.7	7.3	53.4	n/a	59.6

Notes: HH: households; THH: total households; PC: personal computer; TV: television; n/a: not available

Source: *Concise Statistical Yearbooks for the years 2005–2010*, Central Statistical Office, Warsaw 2005–2011

⁴ CBOS, *Identification and analysis of social groups threatened by social exclusion in the context of effective instruments of reaching these groups regarding planned nationwide informational and educational campaign concerning the process of digitization of television channels dissemination*, Warsaw, December 2009, pp. 24–30.

1.1.2 Platforms

The television signal reception model has changed dramatically in recent years, moving to satellite reception at the cost of cable and terrestrial reception. In the past six years, the number of households receiving a television signal via satellite has nearly doubled, growing from 2.3 million to 4.6 million households.

In 2006–2010 the overall number of cable television subscribers remained stable, with a very small decrease in households using this reception method. However, cable television digitization grew dynamically. The highest growth rate of cable digital television reception was recorded in 2009 and 2010. This can be attributed to the digital expansion of the key cable television operators, including the 2009 launch of digital services by UPC, the largest operator (Dutch), which in 2010 bought number four in the cable business, Aster, reaching thus 1.4 million clients, but after a long process of integration to be finished in 2012.⁵ The next largest operator, Vectra (Polish), had 771,000 clients and the third, Multimedia Poland (stock investment, from Cyprus)—700,000. But in general, cable television operators in Poland are very local; there are over 500 of them.

The trend cannot be assessed clearly for IPTV. Although the number of households using IPTV decreased by 50 percent between 2007 and 2010, the share of households choosing this form of television reception has been and continues to be extremely low. The value was close to zero percent in 2010.

Table 3.

Platform for the main television reception and digital take-up in Poland, 2005–2010

	2005		2006		2007		2008		2009		2010	
	No. of HH ('000) ⁶	% of TVHH ⁷	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH
Terrestrial reception	6,098	46	6,452	48	6,164	46	5,810	42	5,088	37	4,593	33
– of which digital					n/a						169	1
Cable reception	4,834	37	4,722	35	4,830	36	4,491	33	4,790	34	4,721	34
– of which digital	n/a	n/a	n/a	n/a	n/a	n/a	533	4	709	5	901	7
Satellite reception	2,310	17	2,207	17	2,549	19	3,458	25	4,033	29	4,592	33
– of which digital	1,337	10	1,448	11	2,219	16	3,236	24	3,908	28	4,514	33
IPTV	n/a	n/a	n/a	n/a	228	2	179	1	135	1	121	1
– of which digital	n/a	n/a	n/a	n/a	228	2	179	1	135	1	121	1
Total	13,242	100	13,381	100	13,543	100	13,759	100	13,911	100	13,906	100
– of which digital	1,337	10	1,448	10	2,219	16	3,758	27	4,619	33	5,496	39

Notes: HH: households; TVHH: Total number of households in the country; n/a: not available

Source: AGB Nielsen Media Research

5 “UPC przejęło Astera za 2,4 mld zł. UOKiK postawił warunki” (UPC bought Aster for PLN2.4 bn. The regulator has set conditions), *Rzeczpospolita*, 19 September 2011, p. B3.

6 Total number of households owning the equipment.

7 Percentage of total number of TV households (TVHH) in the country.

In 2011, 43.9 percent of household received satellite digital television, 29.2 percent received cable television, 18.7 percent had terrestrial analog, and 8.2 percent terrestrial digital television.⁸

The way the television signal is received depends on where people live. In 2009, cable was the most popular form of television reception in big cities (those with more than 500,000 inhabitants), with 63 percent of households receiving their television signal via cable. Terrestrial reception was the most popular in the countryside (56.8 percent of living there use it); in the smaller towns, satellite reception has the highest share of recipients (47.5 percent).

Table 4.

Means of television reception by domicile (as a percentage share of television households)

	Cable	Satellite	Terrestrial
Countryside	3.0	47.5	56.8
City <20,000	33.0	41.0	32.1
City 20,000–100,000	47.4	29.5	29.0
City 100,000–500,000	48.7	25.5	30.5
City >500,000	62.6	18.4	21.1

Note: Some of these households use more than one means of reception

Source: Identification and analysis of social groups threatened by social exclusion in the context of effective instruments for reaching these groups in the planned nationwide informational and educational campaign on digitization of the dissemination of television channels, CBOS, Warsaw, 2009

The internet penetration rate doubled between 2005 and 2010. More importantly, the share of broadband access among all types of access chosen by Poles has grown sharply as well. In 2009 the share of internet subscribers having broadband access was 89 percent whereas the same figure for 2005 was 35 percent. The mobile penetration rate in 2009 reached 117 percent, meaning there were more mobile phones than citizens.

Table 5.

Internet penetration rate (total internet subscriptions as a percentage of the total population) and mobile penetration rate (total active SIM cards as a percentage share of total population)

	2005	2006	2007	2008	2009	2010
Internet	7.0	8.5	n/a	12.6	14.6	n/a
of which broadband	2.4	7.6	10.9	11.6	12.9	n/a
Mobile telephony	76.3	96.2	108.5	115.2	117.0	n/a
of which 3G	0.2	1.0	7.8	15.8	25.8	n/a

Note: n/a: not available

Source: International Telecommunication Union (ITU)

8 Informacja KRRiT 2012, (KRRiT information 2012), p. 11, <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2011/> (accessed 24 May 2012).

1.2 Media Preferences

1.2.1 Main Shifts in News Consumption

The consumption of electronic media such as television and radio has grown significantly. In print media consumption the reverse trend was present, although the readership varies greatly depending on the type and content of the publication. The number of television viewers aged four and over increased by more than 10 percent between 2005 and 2010. Moreover, the average time per viewer spent on watching television has grown significantly from 3h16m to 3h40m per day. This indicates a rise not only in the viewer base, but also in consumption patterns. However, these changes can only partially be attributed to digital migration. In 2010 the share of households receiving signal terrestrially and digitally was only 4 percent; however, it doubled in 2011.

Table 6.
Viewership of television (age group 4+)⁹

Year	2005	2006	2007	2008	2009	2010
Average time	03:16:30	03:19:05	03:19:28	03:26:08	03:35:23	03:40:07
Number of viewers (million)	4.91	4.93	4.91	5.07	5.29	5.43
Share (as a percent of total population aged 4+)	13.6	13.8	13.8	14.3	14.9	15.2

Source: TNS OBOP

Listenership of radio also grew over this period. However, the trend was not clear, since in 2007 and 2010 listenership decreased slightly. Nevertheless, the net growth, when comparing 2010 to 2005, amounted to 1.7 million listeners aged 15–75 or five percentage points of the total population in this age group.

Table 7.
Radio listenership as a total number of listeners (age group 15–75) and
as a percentage share of total population aged 15–75¹⁰

	2005	2006	2007	2008	2009	2010
Number of listeners (million)	22.72	23.14	23.06	23.25	24.68	24.45
Share (%)	75.2	76.6	76.3	76.9	81.7	80.9

Source: Millward Brown SMG/KRC

The trend in press readership is downward; however, it varies depending on type of publication. In 2005–2010 national dailies lost a significant 11.8 percent of the population aged 15–75. This meant that in 2005 almost one out of two potential readers read them, while currently they retain fewer than one in three.

⁹ Data for 2010 refers to the period of January–November.

¹⁰ Data for 2010 refers to the period of January–October.

Regional dailies saw a similar loss. This suggests that the general popularity of the daily press is diminishing, regardless of a title’s territorial reach. The reverse trend can be seen in the readership of magazines. Between 2005 and 2010 the share of population aged 15–75 reading magazines grew by 1.2 million (4.3 percentage points) and stays solid at over 80 percent.

Table 8.

Press readership as a total number of readers aged 15–75 and as a percentage share of total population aged 15–75¹¹

	2005	2006	2007	2008	2009	2010
National dailies (22), million readers	14.74	14.65	14.22	12.96	11.81	11.18
Share (%)	48.9	48.6	47.2	43.0	39.2	37.1
Regional dailies, million readers	11.75	11.18	10.55	9.52	8.98	8.29
Share (%)	39.0	37.1	35.0	31.6	29.8	27.5
Magazines, million readers	24.50	25.68	26.46	26.34	26.13	25.80
Share (%)	81.3	85.2	87.8	87.4	86.7	85.6

Source: Millward Brown SMG/KRC

1.2.2 Availability of a Diverse Range of News Sources

The trends in news consumption are obvious: more people are getting their news from sources other than the printed press. The readers migrate primarily to the internet, where print media have established their internet editions and specialized portals. The leading daily *Gazeta Wyborcza* owns two of them: *Gazeta.pl* and *Wyborcza.pl*. Print media titles have their internet versions updated round the clock, which is especially important for weeklies and monthlies (for instance the *Press* monthly, which runs a popular portal about media *Press.pl*).

There are plenty of new stand-alone internet titles, with no print equivalent at all. *Kontrataksty* (*Kontrataksty.pl*) and *Studio Opinii* (*Studioopinii.pl*) are examples of internet liberal opinion newspapers with contributions from leading journalists. The blogging portal *Salon24* (*Salon24.pl*), which identifies itself as an “independent authors’ forum,” has more right-wing appeal. *Wpolarityce.pl* also presents opinions of more conservative journalists and bloggers.

There are also specialized bloggers’ portals: *Blox.pl*, *Bloggers.pl*, and others, where thousands of people comment on many subjects. YouTube, Facebook, and its Polish version “*Nasza Klasa*” (*NK.pl*), and *Demotywatory.pl*, are the most popular social networks, used mostly for personal information and exchanging predominantly fun-oriented but also political and economic pieces of information.

¹¹ Data for 2010 refers to the period of January–September.

In the past five years these changes have improved the availability of a diverse range of news. There is more competition among media, but the quality of reporting and editing of the news has been deteriorating. Tabloidization of media has picked up; the internet freedom of publishing almost anything anywhere has largely contributed to this.

1.3. News Providers

1.3.1 Leading Sources of News

Print

Among the top dailies, *Gazeta Wyborcza* is the most popular title. Marginally fewer readers prefer *Fakt*, which is also the top tabloid newspaper in the country. Nevertheless, both titles, along with the third most popular paper, *Super Express*, have lost a significant number of readers over this period, and the total share of people aged 15–75 choosing any of the three top dailies has slipped from 52 percent to 35 percent.

Table 9.

Readership of top national daily newspapers as a percentage share of population aged 15–75

	2005	2006	2007	2008	2009	2010
<i>Gazeta Wyborcza</i>	18.7	19.8	19.5	16.8	14.4	14.4
<i>Fakt</i>	23.3	19.7	18.3	16.1	14.6	14.3
<i>Super Express</i>	10.6	9.1	8.3	7.7	6.9	6.5
<i>Metro (free of charge)</i>	5.9	7.9	8.2	7.3	7.3	6.2
<i>Rzeczpospolita</i>	4.0	5.5	5.3	4.7	4.1	4.3

Source: Millward Brown SMG/KRC

The popularity of news and opinion magazines has steadily declined since 2007. The exception is *Angora*, with 11.4 percent of readers in 2010, almost doubling since 2005. But *Angora* is a digest of the Polish and foreign press, not an opinion magazine. The *Newsweek* and *Polityka* weeklies—the real opinion makers, ranked second and third, respectively—grew until 2007, and then their share of readers started slipping. The same is true for *Wprost*, regardless of its political shifts from left to right and center. The readership of the Roman Catholic weekly *Gość Niedzielny* has remained stable since 2007. The new weekly *Uważam Rze*, which launched in February 2011, in six months reached sales of 140,000 copies, the highest of all news and opinion weeklies; however, its cover price has been PLN 2.90 (US\$ 0.96) compared with PLN 5 (US\$ 1.66) for its competitors.¹² Also the ultra-right weekly *Gazeta Polska* increased its circulation, to 70,000 copies. In September 2011, it also launched a political tabloid daily, *Gazeta Polska Codziennie*.

12 Magdalena Lemańska, “Uważam Rze z najwyższą sprzedażą w historii” (Uważam Rze with the highest sale in history), *Rzeczpospolita*, 20 October 2011, p. B7. As of March 2012, *Uważam Rze* has had a cover price of PLN 2.90, the lowest price of any weekly. In 2011, the PLN–US\$ exchange rate varied from PLN 2.7 PLN/US\$1 in April to PLN 3.4 PLN/US\$1 in December. A rate of 1 US\$=3 PLN has been used in this report.

The regional press has been hit the most by the decrease in readership and the concentration of the publishing industry. Almost all regional dailies belong to two owners—Polskapresse and Media Regionalne—which have divided Poland into regions they dominate. Polskapresse owns nine regional editions of the daily *Polska*; Media Regionalne publishes 10 titles. The circulation of the regional press does not exceed 60,000 to 70,000 per title. Regional editions of *Gazeta Wyborcza* are comparable in sales. On top of these three publishers of regional newspapers, hundreds of independent local titles, mostly weeklies, are published all over Poland. About 50 of them have joint advertising sales.¹³

Table 10.

Readership of the top national weekly news magazines as a percentage share of population aged 15–75

	2005	2006	2007	2008	2009	2010
<i>Angora</i>	6.3	8.6	9.5	9.5	10.4	11.4
<i>Newsweek</i>	7.6	10.4	10.9	10.0	9.5	9.2
<i>Polityka</i>	5.5	8.0	8.1	7.5	7.1	7.3
<i>Wprost</i>	7.1	9.7	10.8	9.7	6.7	5.6
<i>Gość Niedzielny</i>	2.5	3.3	3.9	4.0	4.1	4.1

Source: Millward Brown SMG/KRC

Television

TVP, the public broadcaster, has been losing its dominant position on the television market. Among television channels, TVP1 has been traditionally first, but its share of viewers has diminished significantly, falling from a quarter to a fifth over five years. The largest drop occurred in the years 2008–2010. The loss of viewers for TVP2 was even sharper. For the 24-hour news channel TVP Info, 2007 was the best year. The aggregate viewership share of public television channels decreased from 51.2 percent in 2005 to 39.5 percent in 2010.

Table 11.

Viewership of main PSB channels as a percentage share of population aged 4+

	2005	2006	2007	2008	2009	2010
TVP1	24.0	24.6	24.0	23.3	21.4	19.5
TVP2	21.4	20.2	17.9	16.7	15.2	14.4
TVP INFO	4.7	5.2	5.4	4.5	4.3	4.8
TVP Polonia	1.0	0.7	0.7	0.7	0.7	0.7

Source: TNS OBOP¹⁴

In 2010 for the first time TVN was the strongest commercial television channel, ahead of Polsat by a small margin. In the previous years, Polsat has been the leading commercial station, ahead of TVN by over two percentage points in 2005. TVN24, the 24-hour news channel, ranked third. Its popularity has grown by as

13 Based on Foreign Ministry information, “The media in Poland” prepared in 2011 for the Polish EU Presidency, and <http://gazetylokalne.pl/> (accessed 18 February 2012).

14 TNS OBOP response to the author’s inquiry, March 2011; also source in the following tables.

much as 25 percent throughout 2008 and 2009. The trend indicates the rise in popularity of television as a source of news.

In the years 2005–2010 the average audience share per channel among the 20 most popular channels decreased from 4.6 percent to 4.1 percent. Meanwhile, the standard deviation¹⁵ decreased. This means that in this period minor market players gained viewers, which is a good sign for pluralism and diversity in the media market. This also means that the largest channels traditional advantage in audience share has started to diminish, which also indicates fiercer competition and diversity.

Table 12.

Viewership of main commercial channels as a percentage share of population aged 4+

	2005	2006	2007	2008	2009	2010
TVN	14.6	15.3	15.2	14.9	13.9	13.7
Polsat	16.8	16.1	16.6	15.6	14.8	13.6
TVN24	1.4	1.8	3.1	3.0	3.1	4.2
TV4	2.5	2.1	1.9	1.8	2.1	2.2
TVN Siedem	1.4	1.2	1.4	1.6	1.6	1.5

Source: TNS OBOP

Radio

In 2010, there were six national radio stations, two of them commercial, namely RMF FM, Radio Zet. The other three were PSB stations, and the sixth one, Radio Maryja, is a non-commercial Roman Catholic station, having a status of social broadcaster (no advertising, but no need to pay a frequency fee, either.) Of the three PSB stations, PR3 (music and news format) and PR2 (classical music, education) registered an increase in audience share. PR1 (music and general interest) lost approximately one percentage point of audience share.

Table 13.

Listenership of the top nationally disseminated PSB radio stations as a percentage share of the population aged 15–75 and as a total number of listeners (million)

		2005	2006	2007	2008	2009	2010
Program 1 Polskiego Radia	Share (%)	15.6	15.8	14.9	14.8	14.8	14.7
	Million listeners	4.7	4.7	4.5	4.4	4.4	4.4
Program 2 Polskiego Radia	Share (%)	1.1	1.1	1.1	1.1	1.3	1.2
	Million listeners	0.3	0.3	0.3	0.3	0.4	0.3
Program 3 Polskiego Radia	Share (%)	6.7	7.3	7.3	7.1	8.2	8.6
	Million listeners	2.0	2.2	2.2	2.1	2.4	2.6

Source: Millward Brown SMG/KRC

¹⁵ In this context, the standard deviation measures the average deviation of share values from the average of the 20 top television channels.

RMF FM, the prime commercial radio station, grew in popularity. Its audience share increased significantly, by more than 1.5 million listeners, which accounts for a 20 percent rise in audience share. The trend for the second commercial station, Radio ZET, cannot be determined, since its audience rose between 2005 and 2007, then decreased in 2008 and stagnated at 22.4 percent, slightly less than in 2005. Catholic Radio Maryja lost 170,000 listeners throughout the period. This religion-themed radio station is regarded as controversial, often presenting fundamentalist Catholic, anti-Semitic, xenophobic, and anti-EU content. In 2012 the electronic media regulator KRRiT imposed a fine of PLN 4,000 (US\$ 1,333) on the network for hidden advertising. Being a social broadcaster, Radio Maryja is exempted from paying the PLN 7 million (US\$1.97 million) a year frequency fee.

Table 14.

Listenership of the top nationally disseminated commercial radio stations as a percentage share of the population aged 15–75 and as a total number of listeners (million)

		2005	2006	2007	2008	2009	2010
Radio RMF FM	Share (%)	27.0	27.4	28.1	28.8	33.0	32.5
	Million listeners	8.1	8.2	8.5	8.7	9.9	9.8
Radio ZET	Share (%)	23.3	23.9	24.6	23.8	24.2	22.4
	Million listeners	7.0	7.2	7.4	7.1	7.3	6.7
Radio Maryja	Share (%)	3.8	3.3	3.1	3.1	3.4	3.2
	Million listeners	1.1	1.0	0.9	0.9	1.0	0.9

Source: Millward Brown SMG/KRC

Online

The number of people getting their news primarily from the internet (about six million) is still well behind those who use television as their primary source of news, but not that far behind the number of radio listeners (10 million). But taking into account the number of all internet users (17 million), it is safe to say that the internet will become the second most popular news source in Poland relatively soon. In fact, Polish internauts already spent more time weekly in front of the monitor, 14.5 hours, than in front of the television set, 14 hours, but not all that time was spent searching for news.¹⁶ So the dominance of television, 20 million viewers, 15 million of them watching newscasts, will last a while longer, but is diminishing.

News on the internet is provided either by online versions of the most popular press titles (*Gazeta Wyborcza*, *Rzeczpospolita*, *Fakt*, *Super Express*) or by news portals. Among news portals the most popular is *Onet.pl*, owned by ITI, former owner of television TVN, followed by *Wp.pl*, owned by the national telcom Telekomunikacja Polska, and *Interia.pl*, owned by Bauer Media, which also owns RMF FM, the most popular radio station.

¹⁶ “2,7 proc. polskiego PKB to gospodarka internetowa” (2.7 percent of Polish GNP comes from internet economy), *Gazeta Wyborcza*, 2 September 2011, *Internetowa Rewolucja*, p. 2.

Among civil journalism portals leads *Wiadomosci24.pl*, followed by countless blogs platforms (see section 3.1.1).

These statistics contradict the opinion of former Polish prime minister Jarosław Kaczyński about the *typical* internet user being a person with a bottle of beer watching porn, therefore not eligible for internet voting.¹⁷ There are no data to link surfing on the internet and beer consumption, but the data about the most popular areas of interest among web users leave no doubt that in cyberspace, erotic content is 10 times less popular than the leading search engine, as Google is accessed 10 times more than porn.

The internet has provided limitless possibilities for free expression and dissemination of news. However, in practice there have been obstacles to their full realization. In the opinion of the authors of the “Report about Threats to Freedom of Expression in Poland 2010–2011”:

Based on over 10 years of observation of the popular internet portals, one may notice comments being phased out by invectives. Many bloggers are reporting their experiences of trying to comment on popular portals, where their inputs were blocked, but insults were allowed. They are convinced that a “style of insult” has been promoted on purpose by portal owners in order to get higher numbers of visitors, which sells ads. Therefore, freedom to comment on these sites becomes a fiction.

According to the same report,

There are many interesting social sites, also dealing with important issues and disclosing the reality not registered in other publications. Apart from Internet versions of press titles, ‘niche’ portals such as: *Niezależna.pl* (in English version: *freepress.pl*), *Blogpress*, *Blogmedia24*, *Niepoprawni.pl* are also dynamically growing. You can always find photos and films from events not covered by the mainstream media there.¹⁸

Right-wing journalists have seen the internet as a primary field of political battle. After the 2011 elections, Joanna Lichočka noted in *Gazeta Polska Codziennie*:

The overwhelming victory of the Civic Platform (PO) has been created by the daily hard work of the majority of media. Either we create a second reality, an independent citizens’ social structure with its own cultural institutions, strong media and organizations, or we will not have even the slightest influence over the reality of Poland.¹⁹

17 See <http://www.reuters.com/article/2008/03/12/us-poland-voting-internet-idUSL1241936920080312> (accessed 3 September 2011).

18 *Stowarzyszenie Polska jest Najważniejsza, Raport o zagrożeniach wolności słowa w Polsce 2010-2011* (Poland is First Association, Report about Threats to Freedom of Expression In Poland 2010-2011), at <http://wpolityce.pl/artykuly/15695-raport-o-zagrozeniach-wolnosci-slowa-w-polsce-w-latach-2010-2011-stowarzyszenia-polska-jest-najwazniejsza> (accessed 18 October 2011).

19 Joanna Lichočka, “Media, głupcze!” (The Media, Stupid!), *Gazeta Polska Codziennie*, 11 October 2011, p. 11.

In February 2012, the well-known television and print media journalist Tomasz Lis established NaTemat.pl, a new internet portal with news, blogs and comments, employing 22 journalists. The publisher is Glob 360, a company in which Mr Lis has a 45 percent stake and NextWebMedia 40 percent. NaTemat.pl attracted over 100 well-known politicians, business people and celebrities as contributors. The bloggers are not paid. The portal's income will come from advertising. The founders hope to place NaTemat.pl among the top five internet portals in the country.²⁰

Table 15.

Monthly unique internet users in Poland by main themes of accessed websites, November 2010

Ranking	Area of interest	Leading website	No of unique users	Reach in % of internet users
1	Internet content engines	Google group	16,721,304	91.6
2	Social networks	Nasza-klasa.pl Facebook	11,908,007 9,145,442	65.2 50.1
3	Culture and entertainment	Youtube.com	11,513,177	63.1
4	e-commerce	Allegro group	11,365,011	62.2
5	Education	Wikipedia group	9,209,537	50.4
6	Lifestyle	Onet.pl Group	6,666,633	36.5
7	Information, current affairs	Onet.pl Group	6,401,416	40.5
8	Corporate pages	Microsoft group	5,382,606	29.5
9	New technologies	Interia.pl group	4,835,425	26.5
10	Business, finance, law	Onet.pl Group	4,157,958	23.5
11	Sport	Onet.pl Group	3,603,866	19.7
12	Erotic content	redtube.com	1,514,788	8.3

Source: *Najpopularniejsze serwisy tematyczne w listopadzie 2010*, Wirtualne Media, 25 January 2011 <http://www.wirtualnemedi.pl/artykul/najpopularniejsze-serwisy-tematyczne-w-listopadzie-2010-roku> (accessed 13 February 2011)

1.3.2 Television News Programs

The most popular primetime newscasts on public service television are *Wiadomości* and *Teleexpress* on TVP1 and *Panorama* on TVP2. Historically, the most popular Polish newscast has been *Wiadomości* on TVP, with a 12.6 percent share of the audience in 2010. This share remained roughly unchanged over the period in question. This refers to the absolute number of viewers as well (about 4.5 million per broadcast). The audience of *Teleexpress* dropped slightly over the period, from 3.65 million to 3.5 million (by 4 percent). The third news bulletin, *Panorama*, suffered the largest audience share loss. Its base plummeted by 34 percent of the original audience in 2005. This loss can be partly attributed to the frequent changes in its air time schedule.

20 "Wystartował Portal Tomasza Lisa" (Tomasz Lis' portal has started), at http://wyborcza.pl/1,75248,11213669,Wystartowal_serwis_Tomasza_Lisa_NaTemat_pl.html (accessed 23 February 2012).

Two of the five most popular bulletins are produced by commercial stations: *Fakty* by TVN and *Wydarzenia* aired on Polsat. Overall, the aggregate average audience of the two commercial bulletins increased from 4.8 million to 5.9 million (by 23 percent) between 2005 and 2010. Over the period studied, *Fakty TVN* gained the largest share of the audience, nearly 1 million viewers (a 35 percent rise). The audience gained by *Wydarzenia* in the same time accounted for 100,000 (5 percent).

The growing popularity of *Fakty TVN* is even more significant, if the lower penetration of TVN, the channel airing this news bulletin (only 86 percent of Poland's territory), is taken into account, because it means that comparatively it is more difficult for them to gain new viewers. The dynamics of aggregate viewership of all main five newscasts cannot be assessed clearly. It fell significantly if one compares results from 2009 to these from 2005.

Comparing the October 2011 viewership of the main television news bulletins to that of October 2010, all television stations recorded a decline in viewers. The viewership of the main public television information programs *Wiadomości* and *Teleexpress* shrank by respectively 10 and 9 percent (from 4.6 million to 4.1 million, and from 3.7 million to 3.4 million). For the commercial TVN channel's *Fakty* newscast the decrease was 7 percent (from 4.55 million to 4.2 million).

“Television news bulletins are being watched by people who got used to it. Nowadays, some viewers, young ones in particular, have not developed this habit, because during the day they have a constant access to the net, as well as mobile phones, and they will have already learned the news,” explains Małgorzata Wyszynska, the former editor-in-chief of *Wiadomości*.²¹

Table 16.

Viewership of the most popular television news bulletins,
as a total number of viewers aged 4+ in million viewers

Bulletin	Channel	Airing time	2005	2006	2007	2008	2009	2010
<i>Wiadomości</i>	TVP 1	7.30 p.m.	4.54	4.62	4.57	4.33	4.34	4.47
<i>Teleexpress</i>	TVP 1	5 p.m.	3.37	3.75	3.65	3.52	3.58	3.50
<i>Panorama</i>	TVP 2	10 p.m.	2.23	2.21	1.84	1.49	1.45	1.48
<i>TVN Fakty</i>	TVN	7 p.m.	2.69	2.84	3.02	3.03	3.27	3.64
<i>Wydarzenia</i>	Polsat	6.40 p.m.	2.16	2.15	2.15	2.25	2.36	2.28
TOTAL			15.27	15.58	15.22	14.62	14.99	15.36

Source: TNS OBOP

21 Kamila Baranowska “Telewizje tracą, zyskuje internet” (TV channels are losing, while the Internet gains), *Rzeczpospolita*, 7 November 2011, p. A8.

Table 17.
Audience share of the five most television popular news bulletins
as a percentage share of population aged 4+

Bulletin	Channel	Airing time	2005	2006	2007	2008	2009	2010
<i>Wiadomości</i>	TVP 1	7.30 p.m.	12.61	12.96	12.88	12.22	12.27	12.59
<i>Teleexpres</i>	TVP 1	5 p.m.	10.15	10.51	10.28	9.92	10.12	9.87
<i>Panorama</i>	TVP 2	6 p.m.	6.20	6.19	5.17	4.19	4.10	4.16
<i>TVN Fakty</i>	TVN	7 p.m.	7.49	7.95	8.51	8.56	9.25	10.25
<i>Wydarzenia</i>	Polsat	6.40 p.m.	6.00	6.04	6.04	6.35	6.66	6.41

Source: TNS OBOP

1.3.3 Impact of Digital Media on Good-quality News

The digital television channels have not brought any change in news quality yet, but the internet has. The direction of change of news bulletins was measured by comparing the monthly composition of *Fakty*, the prime TVN news bulletin, and *Wiadomości*, the flagship news program of the public TVP.²² In one year, 2009, the number of “hard news” dealing with politics, the economy, and social issues decreased by half in public television news programs. Instead, “soft news” imitating the tabloids, such as features, tragic events, and sensational stories were presented. The commercial TVN’s *Fakty* has the same tendency, but at a much lower pace. The ratio of hard news to soft news on TVN has been constant in recent years: three to one. *Wiadomości* went through a revolution: the number of soft stories doubled in one year, and there were three times more of them on public television than on the commercial channel.²³

Dorota Piontek, PhD from the Journalism Department of the Adam Mickiewicz University in Poznań,²⁴ said:

Soft news is for entertainment. Hard news deals with the mechanisms of liberal democracy. Hard news allows making rational choices, for instance in politics. It reduces uncertainty. Therefore, [hard news] has a positive impact on what we call the public good. In *Wiadomości* the share of soft news rose in one year from 55 percent to 78 percent of time.

In this researcher’s opinion: “People get information from the internet faster, but they often have no context. But there is little background in *Fakty* and *Wiadomości*, either. Television stations do not look for a good expert anymore; they cut costs and speed up the production process.”²⁵

The situation in public television has been changing, however, since March 2011, when Juliusz Braun was appointed the head of TVP. In the September/October 2011 parliamentary election coverage monitoring,

22 Marcin Kącki, “Wiadomości jak dobranocka” (Wiadomości like kids program), *Gazeta Wyborcza*, 23–24 October 2010, p. 25. The analysis of these programs in 9–15 February 2009 and 19–25 February 2010 was done by Dorota Piontek, Ph.D. from the Journalism Department of Adam Mickiewicz University, Poznań. (Hereafter Marcin Kącki, “Wiadomości jak dobranocka,” *Gazeta Wyborcza*, 23–24 October 2010.)

23 Marcin Kącki, “Wiadomości jak dobranocka,” *Gazeta Wyborcza*, 23–24 October 2010.

24 Marcin Kącki, “Wiadomości jak dobranocka,” *Gazeta Wyborcza*, 23–24 October 2010.

25 Marcin Kącki, “Wiadomości jak dobranocka,” *Gazeta Wyborcza*, 23–24 October 2010.

done by the Batory Foundation, TVP news bulletins were rated as generally more impartial and balanced than those of their private competitors TVN and Polsat, although—again—lacking in deeper political analysis.²⁶

Online media have broadened the diversity of news sources and have generated news themselves. New citizen journalists and bloggers follow traditional media on a daily basis, exposing their errors and omissions. The fame of the blogger Kataryna (Kataryna.blox.pl) was founded on her criticism of the quality of news in traditional media. Her strong opinions so outraged journalists that she was finally outed by the daily *Dziennik*.²⁷ This in turn led to a heated discussion about the morality of such criticism by someone hiding behind a pen name.

1.4 Assessments

The digitization of television broadcasting in Poland is still at a very early stage. Therefore, the changes described above have more to do with the impact of the internet on the media than with the digitization of broadcasting.

Digitization of television broadcasting could not yet have had any measurable impact on the quality of television news offer and choice of television channels people prefer over others. However, the pressure from the growing exchange of news on the internet, the phenomenon of social networks (Facebook, You Tube, Nasza Klasa), and a younger generation spending almost all their spare time on the internet, do change the news offer delivered by both public and private television stations.

The news *softening* process, analyzed through the example of main news bulletins of public TVP and private TVN, proves that there is an ongoing tabloidization of news. In public television, though, it has happened with the alarming speed of doubling the number of soft news items in one year (2010). If you take this as a measure of tabloidization, public TVP seems to be three times more *commercial* in news style than private TVN. Until 2011 this made much of the talk about public service mission (remit) of TVP hollow.

Public television, fulfilling its remit, should put a brake on this process, meeting the best professional standards of nonpartisan, balanced and serious news coverage. Its management appointed in the summer of 2011, after long and bitter political fights (more about the political history of public television in section 2.2.1) pledged to return to these standards.

The internet has provided limitless possibilities for free expression and dissemination of news. However, right-wing editors and journalists, especially those active in this field of mass communication, claim the entire media space has been dominated by left-leaning voices and insist the right is therefore forced to create what it refers to as a “second reality” in the virtual world.

26 See coverage analysis at http://www.batory.org.pl/maszglos/parlament_2011.htm (accessed 14 October 2011)

27 S. Czubkowska, R. Zieliński, “Wiemy, kim jest Kataryna” (We know who is Kataryna), *Dziennik.pl*, 21 May 2009, at <http://wiadomosci.dziennik.pl/wydarzenia/artykuly/150114,wiemy-kim-jest-kataryna.html> (accessed 6 June 2012).

2. Digital Media and Public or State-administered Broadcasters

2.1 Public Service and State Institutions

2.1.1 Overview of Public Service Media; News and Current Affairs Output

The public television broadcaster, TVP (*Telewizja Polska*, Polish Television), runs two national terrestrial channels, namely TVP1 and TVP2; 16 regional channels under the common name of TVP Info; a satellite channel aimed at viewers living abroad, TVP Polonia; a general-content satellite channel TVP HD; and four specialized satellite disseminated channels: TVP Kultura (TVP Culture), TVP Historia (TVP History), TVP Sport, and TVP Seriele (TVP Series).

According to the Broadcasting Act of 1992, the main tasks of public service broadcasting are to strengthen family ties, support a pro-health attitude, contribute to combating social ills, and respect the needs of ethnic groups and minorities.²⁸ Programs that fulfilled the public mission defined in such a broad definition accounted for 90.5 percent of TVP1's air time and 79.3 percent of TVP2's air time in 2009. The respective figures for the following channels were: TVP Kultura-92.9 percent, TVP Sport-93.6 percent, TVP Historia-90.4 percent, TVP HD-93.6 percent.²⁹

However, according to independent sources (At Media company, which sells ads on thematic channels³⁰), the number of "mission" programs, such as news and current affairs on TVP1 and TVP2, dropped from 596 in 2000 to 191 in 2011; advice, science and educational programs were reduced from 181 to 42. The majority of them were transferred to TVP's theme channels: TVP Info, TVP Historia, and TVP Kultura.³¹

28 Broadcasting Act, art.21, 1992, see <http://www.krrit.gov.pl/angielska/index.html> (accessed 12 March 2012).

29 KRRiT Information for 2009, at <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2009/> (accessed 12 June 2012).

30 See www.atmedia.pl/spoters.htm (accessed 12 June 2012).

31 Kamila Baranowska "Jak z misji został ogryzek (How the mission was reduced to a scrap), *Rzeczpospolita*, 22 March 2012, p. A7.

Table 18.

TVP's structure of output (percentage shares of total airing time), 2010

	TVP1	TVP2	TVP Info ³²	TVP Polonia	TVP HD	TVP Kultura ^{**}	TVP Historia
Movies	47.3	44.8	0.7	30.7	34.0	4.1	13.2
Documentaries	4.9	8.3	7.9	11.1	11.7	15.2	41.1
Religion	2.1	0.8	4.0	2.4	0.1	—	—
Education	2.9	5.7	4.8	6.5	0.3	0.5	14.3
Current affairs	9.9	3.3	26.5	16.9	0.5	6.2	9.4
Promotion	2.9	3.1	7.8	6.5	6.3	—	—
Paid content ³³	14.7	15.9	5.2	2.9	0.1	—	—
Sport	2.4	2.4	12.2	3.7	40.9	—	—
Entertainment	3.6	9.6	2.1	4.7	1.7	2	0.7
News	6.6	3.0	23.0	7.5	—	0.4	0.1
Advisory	0.6	—	3.9	0.3	—	—	—
Music	1.6	3.1	1.9	6.0	4.5	12.4	2.0
Theater	0.6	—	—	0.9	—	1.9	—
Other ³⁴	—	—	—	—	—	19.2	19.2

Note: ** between the hours 6–23

Source: KRRiT Information for the year 2011, <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2011/>

Polish Radio has four specialized channels and one designed for listeners abroad. PR1 has a universal profile, dealing mainly with social issues; PR2 is music and literature oriented, intended for more sophisticated listeners; PR3 is information and entertainment, aimed at better-educated and younger listeners; PR4 is for youth, with music and education and a multimedia platform; PR5, known as Polish Radio for Those Living Abroad, broadcasts in Polish, English, Byelorussian, Jewish, German, Russian and Ukrainian languages. Additionally, Polish Radio Czwórka (PR4) has been broadcast live as a television program by satellite since September 2010. After a year, this educational program proved to be too costly for satellite broadcasting; therefore, from mid-2012 it will be available only on the internet.³⁵

32 Refers to shared content disseminated nationwide.

33 Advertising, sponsorship and product placement

34 Including promotion and paid content.

35 "Radiowa Czwórka do wakacji zniknie z satelity?" (Radio Four disappear from satellite before summer vacations?), media2.pl, at <http://media2.pl/media/86434-Radiowa-Czworka-do-wakacji-zniknie-z-satelity.html> (accessed 12 February 2012).

Table 19.

Polish Radio's structure of output in 2010

Type of program	PR 1	PR 2	PR3	PR4	PR all programs	PR all programs average
	% of total hours				Number of hours	% of total hours
Information	13.9	3.6	8.8	5.7	2,797	8.0
Current affairs	17.6	10.4	14.5	7.3	4,358	12.4
Education and popular science	4.0	2.7	1.3	5.4	1,177	3.4
How to programs	4.4	0.0	1.0	2.6	700	2.0
Religious programs	3.0	1.1	0.6	1.2	520	1.5
Drama	3.1	6.9	0.7	0.0	934	2.7
Entertainment	2.0	0.0	4.7	0.0	587	1.7
Sport	3.6	0.0	1.8	0.7	537	1.5
Children and youth	1.8	0.0	1.0	0.0	251	0.7
Other	6.2	9.4	8.7	5.0	2,567	7.3
Music	38.2	64.0	53.7	69.7	19,777	56.4
Promotion and announcements	0.9	1.7	0.4	0.6	341	1.0
Paid parts of program	1.3	0.2	2.6	1.7	494	1.4
Broadcast hours	8,760	8,760	8,760	8,760	35,040	100.0

Source: KRRiT Information for the year 2011, p. 42 <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2011/>

Both Polish Radio and TVP have their internet platforms (www.polskieradio.pl and www.tvp.pl). The Polish Press Agency (PAP), the national press agency owned by the state, also has its own news platform (www.pap.pl). All the news is available live, and the content has to be archived for at least a month, as mandated by KRRiT, the electronic media regulator. Almost all internet platforms archive their news for a long time, but some charge for access to their archives. *Gazeta Wyborcza*, *Rzeczpospolita* and other print titles digitized all their past issues, but you have to pay to access them.

2.1.2 Digitization and Services

The process of digital switchover of terrestrial platforms (which in Poland is at a very early stage) and the rise of new media will definitely lower the dominance of public television TVP, which used to be the strongest player on the Polish television market.

The digital terrestrial broadcasting of public television started on 27 October 2010. But a few years earlier, preparing for this change, TVP broadened the offer on its specialized-channels. TVP Kultura, TVP Sport and TVP Historia, were launched in 2005–2006; TVP Bielsat was established in 2007, the channel aimed at delivery of independent information for neighboring Belarus. In 2009, TVP HD was introduced. In December 2010, TVP started TVP Seriele carrying television series; in 2011 TVP launched an internet political channel TVP Parliament, originally planned for 2009 but suspended because of a lack of funds.³⁶

36 "TVP planuje trzy nowe kanały tematyczne" (TVP plans three new thematic channels), *Wirtualne Media*, 12 December 2010, at <http://www.wirtualnemedial.pl/artykul/tvp-planuje-trzy-nowe-kanały-tematyczne> (accessed 3 October 2011).

In 2012, TVP asked the regulator, KRRiT, for licenses for two other thematic channels: TVP Dokument (TVP Documentary) and TVP Rozrywka (TVP Entertainment), which will be based on content drawn from the public broadcaster's vast archives. Other possible digital channels include: TVP Wiadomości (News); TVP Kino (for the elderly); TVP Sonda (Science and Technology); TVP Edukacja (Education); TVP Dokument; TVP 5-10-15, aimed at children; TVP for Women; and TVP Archives.³⁷

From 2005 iTVP (interactive television) was developed, offering online transmission of cultural and sport events (International Chopin Competition, Opole Polish Song Contest, New Year's charity telethons), films and documentaries. In 2006 it had the capacity to reach 16,000 viewers online simultaneously; in October 2011, when programs of the TV theater were offered simultaneously on TVP1 and online, they drew over 60,000 viewers. In 2008, iTVP was included into TVP's main website (www.tvp.pl), where in addition to news, television programs and other information, paid VOD service is also being offered with the most popular films, soap operas, comedians and documentaries available.³⁸

2.1.3 Government Support

Because of political conflicts among UKE,³⁹ KRRiT,⁴⁰ TVP, and commercial broadcasters, Poland was among the handful of European Union (EU) countries that had not started regular terrestrial digital broadcasting by October 2010.⁴¹ The government bill dealing with digitization of broadcasting was under discussion for years; in March 2011 the bill was finally agreed upon by the government and sent to Parliament, which adopted it on 30 June 2011.⁴² The President signed it two weeks later.

In the long period of absence of legislation, the division of the "digital pie" has been vigorously negotiated among the government, TVP, and private broadcasters. Originally, TVP was given temporary (until 31 July 2013) space for its three channels on MUX1. However, in October 2010, TVP started digital broadcasting on MUX3.

According to the draft of the digitization law, MUX1 was supposed to be reserved for existing terrestrial broadcasters (TVP, TVN, Polsat, TV4, and Television Puls), MUX2 for new players entering the market, and MUX3 for TVP. After changes negotiated by TVP, private broadcasters and two regulators (KRRiT and UKE), MUX2 is reserved for existing commercial broadcasters, MUX3 for TVP only, and MUX1 for TVP and four other broadcasters, including the new ones.⁴³

37 *Television across Europe*, OSI 2008 report, p. 287.

38 See <http://pl.wikipedia.org/wiki/iTVP> (accessed 27 April 2012).

39 The Office of Electronic Communication (*Urząd Komunikacji Elektronicznej*, UKE), the regulatory body for the communication, telecommunication and broadcasting market.

40 The National Broadcasting Council (*Krajowa Rada Radiofonii i Telewizji*, KRRiT) is, under the National Broadcasting Act, the supreme state body responsible for broadcasting matters.

41 Anna Streżyńska, head of UKE, quoted in Vadim Makarenko's "Cyfrowy pat w telewizji" (Digital impasse in television), *Gazeta Wyborcza*, 21 August 2010, p.28.

42 See <http://www.infor.pl/dziennik-ustaw,rok,2011,nr,153/uz,903,ustawa-o-wdrozeniu-naziemnej-telewizji-cyfrowej.html> (accessed 6 March 2012).

43 Vadim Makarenko, "Telewizje dzielą rynek na nowo" (Television channels are dividing the market again), *Gazeta Wyborcza*, 1 April 2010, p. 24.

The relative popularity and financial strength of public television in Poland, which until mid-2010 was not under the influence of the ruling PO-PSL coalition, meant that until that time the digitization process was not a policy priority for the government. This led to a lack of attention and delays in digitization. It was as late as in 2010, almost three years after the elections, that a PO-favored president was appointed for TVP. Until then, for a long time TVP was adrift under frequently changing management teams (see section 7.2.1).

2.1.4 Public Service Media and Digital Switch-over

The early stages of digitization, as of 2010, had neither increased PSB territorial coverage nor population reach. In 2009, the nationally terrestrially disseminated PSB channels were TVP1, TVP2 and TVP Info. Their reach was as high as 99.6 percent of the population for TVP1, 99.4 percent of population for TVP2, and 70.8 percent of population for TVP Info.

TVP launched digital terrestrial transmission (MUX3) on 27 October 2010 in the provinces of Mazowieckie, Pomorskie, Wielkopolskie and Zachodniopomorskie, reaching 58 percent of the population in these provinces. This accounts for some 19 percent of Poland's population.

Further deployment of DVB transmission, according to Emitel's⁴⁴ plans, will lead to coverage of 98 percent of the Polish population by MUX-3 on 27 April 2014. This indicates that digitization of PSB will significantly widen the audience of TVP Info and those channels, which had been disseminated by satellite only: namely, through TVP Kultura and TVP Historia. TVP1 and TVP2's reach will decrease slightly from the level of above 99 percent to 98 percent of Poland's population.

After the analog switch-off, the reception of TVP programs from MUX1 in some parts of Poland, mainly in the mountains, may be impossible. It may happen to part of 3.5 million viewers, who are living where the analog signal has been strengthened by 134 amplifiers. Only some of them, covering the biggest areas, will be adapted to digital transmission. TVP indicates willingness to participate in costs of digital transmission by all of them, but wants private broadcasters present on MUX1 to participate in it, too.⁴⁵

2.2 Public Service Provision

2.2.1 Perception of Public Service Media

Politicians, journalists and the experts have a negative view of TVP. The broadcaster has been heavily criticized for its lack of political independence in providing content, not living up to its public service mission and its lack of financial sustainability, which results in commercialization.

44 Emitel, a TP Capital Group company, is the leading terrestrial radio and television broadcast infrastructure operator in Poland. Services provided by them are divided into three groups: radio, television television and communications (source: www.emitel.pl). In 2011, Emitel was sold to British investment fund Montagu for PLN 1.7 billion (US\$ 0.8 million).

45 "Problem z odbiorem TVP po wyłączeniu telewizji naziemnej" (TVP signal perception problems after analog switch-off), *Wirtualne Media*, 30 April 2012, at <http://www.wirtualnemedi.pl/artykul/problemy-z-odbiorem-tvp-po-wylaczeniu-telewizji-naziemnej> (accessed 30 April 2012).

Lack of financial sustainability is the result of a crisis in license-fee funding. As figures in Table 20 show, the number of households owning television/radio equipment and paying the license fee fell over three years by at least by 6.8 percentage points, whereas the share of households that own equipment and do not pay the license fee (either by exemption or by evasion) grew by 16.8 percentage points.

Table 20.

Payment of license fee for public service media in Poland (as a percent of total number of households), 2006–2009

Type of household	2006	2007	2008	2009	2010
Households owning registered television/radio equipment with license fee exemption	16.2	13.7	14.4	14.7	18.6
Households that did not register any television/radio equipment	40.3	42.8	46.2	48.6	49.2
Households owning registered television/radio equipment and obliged to pay the license fee	43.5	43.5	39.4	36.7	32.2

Source: KRRiT reports for 2009, 2010, 2011⁴⁶

In 2010 the license fee collection was PLN 552 million (US\$ 184 million), in 2011 it was PLN 470 million (US\$ 157 million). In paying the license fee, Poles were in arrears for PLN 2 billion (US\$ 666 million), being the worst license-fee payers in Europe, where in many countries license fee avoidance is in the single digits: Germany (2 percent), Austria (4 percent), Czech Republic (5 percent), Great Britain (5.2 percent) of households.⁴⁷ Out of 13.5 million households in Poland, only one million pay the license fee regularly. Almost half of the households have never registered a television or radio set, almost a quarter of them registered the receiver but still do not pay the license fee, and one-fifth have been legally exempted from paying because of old age or low income. So only the remaining 7 percent pays the license fee. It means that the financing system of public broadcasting in Poland has collapsed—as concluded the TVP Board of Directors and Supervisory Board in a letter to finance minister and minister of treasury in April 2012.⁴⁸

In the years 2008–2012, license fee payment has steadily decreased. This trend began after the already mentioned 2007 pledge of the PO (from 2007 the ruling party) that the license fee would be scrapped after the elections. The party was prepared to fulfill this promise, but its proposed law on financing the public media directly from the budget was vetoed in mid-2009 by then president Lech Kaczyński. The ruling PO did not reach an agreement with the opposition SLD party to override the veto; SLD wanted to secure at least PLN 880m (US\$ 293 million) for public media in the budget—the 2007 level of license fee collected,

46 Available at <http://www.krrit.gov.pl/bip/LinkClick.aspx?fileticket=TF9HqZUgQ7g%3d&tabid=61> (accessed 12 October 2011).

47 Informacja KRRiT 2012, (KRRiT information 2012), p. 65, at <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2011/> (accessed 24 May 2012).

48 “Juliusz Braun: system finansowania mediów publicznych całkowicie się załamał” (Juliusz Braun: public media financing system has collapsed), *Wirtualne Media*, 19 April 2012, at <http://www.tvp.pl/o-tvp/aktualnosci/juliusz-braun-system-finansowania-mediow-publicznych-calkowicie-sie-zalamal/7108272> (accessed 30 April 2012).

something PO rejected. The public media budget was to be determined on an annual basis by the legislature.⁴⁹ The situation returned to square one, but since then the government has not been really interested in solving the financial problems of the PSB.

To make things worse, the responsibility for license fee collection lies with Poczta Polska (Polish Post Office), but the allocation of funds is through the electronic media regulator, KRRiT. The only way to check whether the license fee is paid is by a household is through inspections by Poczta Polska, but since the home owner may refuse the inspection, in practice the system did not work. In 2010, after the Constitutional Court decision about legality of license fee collection⁵⁰ the Post Office maintained 4,485 inspections, (seven times more than in 2009) and issued 322 paying orders, but tax offices refused to honor them, as not following the Constitutional Court decision.⁵¹

The other obvious option—add the license fee payments to cable television bills—is legally impossible (a private company cannot collect state fee), even though there is no doubt that every cable television client has a television set and therefore has to pay the license fee.

On top of that, the system of fee payment is old fashioned and not understood by the young generation of internet users. In order to pay the fee, one has first to register the radio or television set at the post office. A fee paid without registering the radio or television set is rejected. An online system of registration introduced by the Post Office in 2012 is tedious; after the online registration one has to confirm again on paper what was already registered online, sign it in hard copy and send it back to the post office. The online reality obviously stopped at the post office door.

In March 2010 the Constitutional Court confirmed a legal obligation to pay the license fee, and therefore the responsibility of tax authorities to collect the arrears in it up to five years back,⁵² but this did not improve license fee collection, because of obstruction by tax authorities. In April 2012, KRRiT checked 100 randomly chosen households and 50 businesses and found that 120 of them were late or did not pay the license fee at all. Following legal action to collect the outstanding debts, 81 households and businesses were listed in the National Bad Debtors Register, which prevents them from obtaining credit in the future.⁵³ At the same time, KRRiT changed its previous position that the license fee has to be paid also for watching television and

49 “Premier: nie widzę powodu, aby finansowanie mediów publicznych było na sztywnym poziomie” (PM: I see no reason for public media to have a fixed level of financing), *Gazeta Prawna*, 19 June 2009, at http://www.gazetaprawna.pl/wiadomosci/artykuly/326400,premier_nie_widze_powodu_by_finansowanie_mediow_publicznych_bylo_na_sztynym_poziomie.html (accessed 30 April 2012).

50 “Wyrok z dnia 16.03.2010, Sygn.akt K 24.08” (Sentence from 16 March 2010, Ref. number K 24.08), at http://www.trybunal.gov.pl/OTK/teksty/otkpdf/2010/K_24_08.pdf (accessed 24 May 2012).

51 KRRiT Sprawozdanie za 2011 rok (KRRiT Report for 2011), p. 92, at http://www.krrit.gov.pl/Data/Files/_public/Portals/0/sprawozdania/spr2011/sprawozdanie_2011_2.pdf (accessed 12 June 2012).

52 “Wyrok z dnia 16.03.2010, Sygn.akt K 24.08” (Verdict of 16 March 2010, Ref. number K 24.08), at http://www.trybunal.gov.pl/OTK/teksty/otkpdf/2010/K_24_08.pdf (accessed 24 May 2012).

53 “KRRiT ściga dłużników; akcja pobierania zaległego abonamentu” (KRRiT follows the debtors of license fee non-payment), *Wirtualne Media*, 27 April 2012, at <http://www.wirtualnemedi.pl/artykul/krrit-sciga-dluznikow-akcja-pobierania-zaleglego-abonamentu> (accessed 30 April 2102).

listening to the radio on computers, tablets and smart phones. “KRRiT lawyers point out that the main task of these devices is not listening to the radio or watching television.”⁵⁴

In March 2012 the deadlock over the license fee collection prompted an open letter from artists, journalists and media experts to the Prime Minister, political party leaders and the KRRiT. “We think it is immoral that the license fee is being paid only by a few, and the wealthiest users do not register their television sets in order to avoid payment.” Until the new media law is ready, “the license fee collection should be intensified, which depends solely on the political will of the Prime Minister,” wrote Karol Jakubowicz, Maciej Strzembosz, Marcin Wolski, Jacek Żakowski and others, all well-known public figures.⁵⁵

Table 21.

Payment of license fee for public service media in Poland by value, 2008–2010

Year	Loss in PLNm (\$m)	Yearly loss (%)
2008	161.2 (53.7)	18.2
2009	103.1 (34.3)	14.2
2010	96 (32)	15.4

Source: KRRiT “Strategia Regulacyjna na lata 2011–2013”

The real value of license fee payments in 2010 was less than half of that from 2003.⁵⁶ This trend results in the progressive commercialization of TVP (see section 6). In 2009, the share of advertising in the content disseminated by TVP1 was as high as 11.77 percent; the figure for TVP2 was very similar. The share for both stations rose by around 2 p.p. between 2008 and 2009. Overall, in 2009 the highest portion of TVP revenue was from commercial advertising (PLN 1.2 billion or US\$ 405 million), while revenue from license fees accounted for PLN 300 million (US\$100 million).

Politicization of TVP is another widely discussed issue. TVP’s Executive Board appointed in 2009 consisted mainly of people affiliated with the two largest opposition parties: Law and Justice⁵⁷ (hereafter PiS) and Democratic Left Alliance⁵⁸ (hereafter SLD). Such composition of the board resulted in an informal, but effective sharing of public media by these two parties: TVP1 became a channel run by PiS, while TVP2 came under the control of SLD. This partition along party lines was followed by dismissals of journalists in both channels who were not in line with the political profile of the ruling board.⁵⁹

54 “KRRiT: za telewizję i radio w komputerze nie musimy płacić” (KRRiT: We do not need to pay for television in cell phone or computer), *Wirtualne Media*, at <http://www.wirtualnemedial.pl/artykul/krrit-za-telewizje-i-radio-w-komorce-czy-komputerze-nie-musimy-placic> (accessed 24 May 2012).

55 “Marcin Wolski i Jacek Żakowski bronia abonamentu rtv” (Marcin Wolski and Jacek Żakowski defend license fee), *Wirtualne Media*, at <http://www.wirtualnemedial.pl/artykul/marcin-wolski-i-jacek-zakowski-bronia-abonamentu-rtv> (accessed 24 May 2012).

56 KRRiT, *Strategia Regulacyjna na lata 2011-2013 (KRRiT Regulation Strategy 2011-2013)*, KRRiT 2011, p. 39.

57 The Law and Justice Party (*Prawo i Sprawiedliwość*, PiS) is the national conservative party formed in 2001 by Jarosław Kaczyński and Lech Kaczyński. PiS led a coalition government between 2005 and 2007, and since 2007 it has been the largest opposition party in Polish Parliament.

58 The Democratic Left Alliance (*Sojusz Lewicy Demokratycznej*, SLD) is the center-left party established in 1999. Historically, SLD is the indirect successor of PZPR, the Polish communist party, which ruled until 1989.

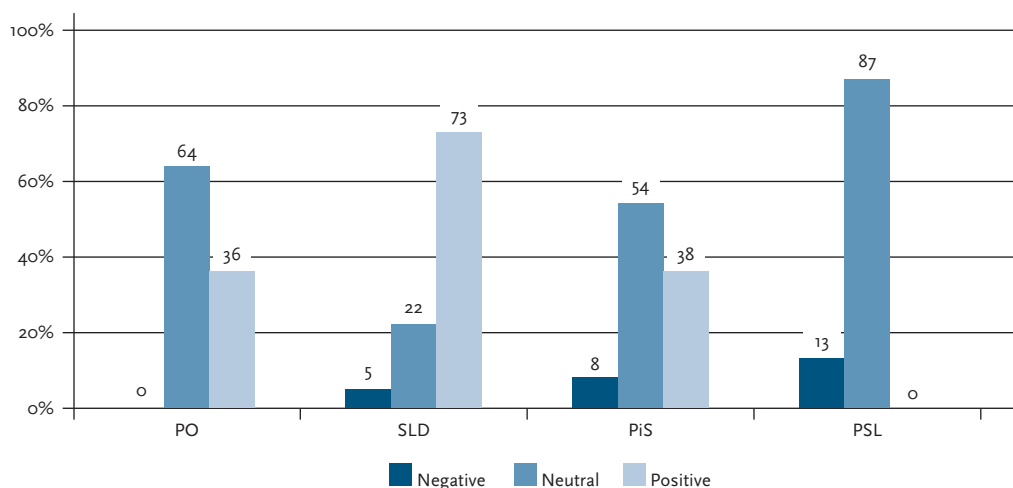
59 “PiS i SLD podzielili się TVP” (PiS and SLD shared TVP), TVN24.pl, 9 November 2009, at <http://www.tvn24.pl/-1,1627842,0,1,pis-i-sld-podzielili-sie-tvp,wiadomosc.html> (accessed 24 August 2011).

When Juliusz Braun, the former KRRiT President (2003) and Ministry of Culture director (2009-2011) associated with the ruling PO party, was nominated as TVP's head (May 2011), a reverse process began; right-wing journalists were dismissed from TVP, which led to charges that “nowadays, both the public and commercial electronic media are more an element of power than its controlling element.”⁶⁰

The other effect of the politicization of public television is the frequency of appearances and biased assessment of political parties in the main newscasts on TVP1 and TVP2. According to a Batory Foundation study, during the electoral campaign for the 2010 local elections, PiS was the party most frequently represented on the primetime newscast, *Wiadomości*, (The News) of TVP1, judged by the length of air time. Moreover, PiS was presented positively 13 percent of the total presentation time. The respective figure for SLD was 25 percent, whereas PO,⁶¹ the ruling party, was presented merely neutrally.⁶²

Figure 5.

Presentation of political parties in the Panorama newscast (as % of total presentation time) during the election campaign of 2010



Source: Report on the monitoring of news bulletins on TVP, 15–19 November 2010, Stefan Batory Foundation, Warsaw 2010

The strong influence of SLD in TVP2 is seen in similar monitoring of the station's main newscast *Panorama*. SLD was the only party, the positive presentation of which clearly dominated the coverage. SLD had been presented in a positive context over 73 percent of the time.⁶³ Similar monitoring done in 2011, before

60 Joanna Lichocka in “Jaki pluralizm w mediach” (What kind of pluralism in media), *Rzeczpospolita Plus Minus*, 4-5 February 2012, p. 4.

61 Civic Platform (*Platforma Obywatelska*, PO) is a liberal-conservative party formed in 2001. Since 2007, PO has been in power in coalition with the Polish People's Party (*Polskie Stronnictwo Ludowe*, PSL).

62 See http://www.batory.org.pl/maszglos/monitoring_tvp.htm (accessed 24 August 2011).

63 Stefan Batory Foundation, *Report on monitoring of news bulletins on TVP in the period of 15th November—19th November 2010*, Warsaw 2010.

parliamentary elections, found TVP newscasts more balanced in general, but with political affiliations to SLD and PSL still traceable.⁶⁴

For many years, TVP has been criticized by the viewing public and by opinion leaders for its lack of a public service mission in broadcasting. Despite its own positive quantitative analysis of mission fulfillment delivered by TVP in KRRiT's annual reports, the quality of the content is assessed poorly by the public.⁶⁵ The majority of air time is taken by movies (see Table 18), usually B-list. The lack of programs for children and young people, and of educational and cultural programming, is of special concern.⁶⁶ In 2009, of all complaints lodged by PSB listeners and viewers, the absence of a public service profile was the second most frequently mentioned.⁶⁷ In September 2010, *Gazeta Wyborcza* summed up: "TVP abandons real art. In primetime, TVP is exactly like the commercial stations. The same movies, shows, soap operas, stand-up comedy shows."⁶⁸

2.2.2 Public Service Provision in Commercial Media

In the broadcasting licenses granted to some private broadcasters, the KRRiT specified additional conditions or the broadcasters agreed to fulfill a set of conditions going beyond what was literally required by broadcasting law. Throughout 2006, KRRiT conducted monitoring of broadcasters' output in order to determine if the conditions accepted by them had been fulfilled. Most of them had fulfilled their license requirements.

According to the KRRiT's monitoring in March 2006, television Polsat met the conditions to air at least seven hours a week of news, six hours a week of educational, economic and health programs, and one and a half hours a week of documentary films. It also has to air cultural events, drama formats and concerts of classical and pop music. TVN also fulfilled its requirements to air at least seven hours a week of news and at least three hours a week of educational programs and how-to magazines.

Similar monitoring in September 2006 showed that TV4 complied with requirements to air news for at least 6 percent of monthly broadcasting time, educational and children programming for at least 3 percent and art for at least 2 percent. Monitoring of Television Puls in November and December 2006 showed that they fulfilled their requirements to air mostly social and religious programming, something that was later changed dramatically (see section 6.1.5).

However, in July 2006 the Supreme Administrative Court (NSA) declared these audits to be illegal. "The KRRiT could not arrogate the right to dictate the percentage of certain programs in the license [contract],"

64 See http://www.batory.org.pl/maszglos/monitoring_tvp.htm (accessed 21 October 2011).

65 "Jurek Owsiak: TVP nie wypełnia misji- nie płacmy abonamentu" (Jurek Owsiak: TVP does not fulfill its mission, let's not pay the license fee); Owsiak, head of the most trusted NGO in Poland, released this appeal after refusal of coverage by TVP of his charity concert for floods' victims; see <http://www.wirtualnemedial.pl/artykul/jurek-owskiak-tvp-nie-wypelnia-misji-nie-placmy-abonamentu> (accessed 12 February 2012).

66 KRRiT, Opening Report, 2008, at <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2008/> (accessed 12 February 2012).

67 KRRiT, *Report on KRRiT activity in 2009*, Warsaw, March 2010, at <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2010/> (accessed 12 February 2012).

68 K. Kopczyński, A. Luter, "Telewizja publiczna, ale jaka?" (Public television, but what kind?), *Gazeta Wyborcza*, Warszawa, 16 September 2010, p. 17.

said NSA judge, Stanisław Biernat, explaining the decision.⁶⁹ KRRiT responded that in the same sentence the court noted that it was up to the applicant to declare what it wants to broadcast in hours and percentage of the program. If the license is granted, these promises became a broadcaster's obligations, to be checked periodically by KRRiT.⁷⁰ Since then, however, KRRiT has not been conducting any monitoring regarding programming quotas and does not impose any quotas on private broadcasters.

2.3 Assessments

The process of digital switchover of terrestrial platforms (which is at a very early stage in Poland) and the rise of new media will definitely lower the dominance of public television TVP, which still is the strongest player on the Polish television market. In the analog terrestrial broadcasting era, seven channels could be received by TV antennas: TVP1, TVP2, TVPInfo, Polsat, TV Puls, TV4 and TVN (in 86 percent of the territory), and three of them were of the public broadcaster. In the digital era among 21 free-to-air channels available on three MUXes, TVP will have only one MUX with seven channels. All experts agree that in the near future the dominance of TVP in broadcasting will shrink even faster than in 2005–2010, when the aggregate viewership share of public television channels decreased from 51.2 percent to 39.5 percent.

Because of diminishing payments of the license fee in recent years, non-commercial sources of revenue for TVP are also of diminishing importance. It is highly difficult to distinguish the “mission”-driven programming profile of TVP from “commercial” programs of private broadcasters like TVN or Polsat. No matter how eloquently TVP argues that it has been fulfilling the “mission” year by year, the classic summary of Robert Kwiatkowski, one of the former TVP Presidents, who used to say “Mission? In the same proportion, as the license fee funding,” seems to be the best description of TVP programming realities. Given that the 2010 level of license fee income was 12 percent of the total TVP income, the programming mix reflects that adequately. Public television in Poland, still the largest broadcaster, is truly public only in at most one-eighth of its programming. Usually it means the small hours of the overnight schedule.

And the situation will get even worse, warns KRRiT in its “Regulation strategy for 2011–2013.” “Digital conversion plans in terrestrial broadcasting platforms may mean severe, temporary restrictions of regional TVP programs or their later introduction into the system.”⁷¹ “If some analog channels are not to be switched off earlier, the full coverage in MUX-3, designed exclusively for public television, will not be reached in the nine months following the full switch-off of the analog signal, meaning in April 2013.”⁷²

69 Open Society Institute, *Television across Europe*, 2008, p. 282.

70 Email from Katarzyna Twardowska, KRRiT spokesperson, to the reporters, 26 October 2011.

71 KRRiT, “Strategia regulacyjna na lata 2011–2013” (KRRiT Regulation Strategy for 2011–2013), 2011, p. 12, at <http://www.krrit.gov.pl/dla-mediiow-i-analitykow/publikacje/strategie/> (hereafter KRRiT, “Strategia regulacyjna na lata 2011–2013”) (accessed 12 February 2012).

72 KRRiT, “Strategia regulacyjna na lata 2011–2013,” p. 34.

Public service provisions have not changed in recent years; however, the very fact that they are increasingly ignored by TVP under pressure of commercialization and politicization of the programming makes them less significant. According to a British OFCOM report, Poland has the second most commercialized public television in Europe, only after Ireland. The proof of that is the highest share of movies in the programming (53 percent of air time) and the lowest share of newscasts (6 percent) and documentaries of all kinds (10 percent).⁷³

73 KRRiT, “Strategia regulacyjna na lata 2011–2013,” p. 40.

3. Digital Media and Society

3.1 User-Generated Content (UGC)

3.1.1 UGC Overview

All top 10 popular Polish internet websites are UGC websites, although not in every case UGC services constitutes the website's core business. Only YouTube, Nk.pl, Facebook and Wikipedia were designed as UGC websites at the very beginning. The other sites in the ranking had been developed for other purposes and later adopted some services aimed at engaging users in creating content.

Among the sites, for which UGC is not the core business, the most popular is Onet.pl. Its offer includes news, mail and hosting services, auction services and entertainment. Registered users can also establish dedicated blogs and therefore Onet.pl can be perceived as a UGC site. Another form of UGC input is organization of live chats with prominent politicians, when thousands of online participants ask questions. Onet.pl belongs to TVN, parent company of the commercial TVN. In turn, TVN is a member of ITI group, making Onet.pl a part of a major media group. The alliance of Onet.pl and TVN has been apparent, with some TVN shows being promoted on the Onet platform. This included short video teasers and articles promoting TVN and providing of series and films produced by TVN as VOD. However, the merger of TVN with Cyfra+ may cut these ties in the foreseeable future (see section 5).

Onet's biggest competitors, also present in the ranking, are Wirtualna Polska (Wp.pl), owned by Telekomunikacja Polska; Gazeta.pl, belonging to Agora; and Interia.pl, owned by Bauer Media. Worth mentioning is the question of competition between Onet.pl and wp.pl in the context of the alliance of their owners—TVN and Telekomunikacja Polska (see section 5).

Among websites designed as UGC from the very beginning, Nk.pl was for years the most visited social network website. It was set up by then 22-year old IT student Maciej Popowicz in 2006, as a virtual get-together for high school classmates. NK instantly became very popular, and in 2008 it was acquired by the Estonian corporation Forticom. In 2010, a 70 percent stake was sold to Exciacom, a Cypriot company. Still the most popular social network site in mid-2011, in the autumn NK lost its leading position to Facebook, the popularity of which has been on a sharp rise in Poland.⁷⁴

74 "Facebook przegonił w Polsce Naszą Klasę i dobrze" (Facebook has beaten Nasza Klasa, and this is good), at <http://vbeta.pl/2011/11/22/facebook-przegonil-w-polsce-nasza-klase-idobrze> (accessed 18 February 2012).

The interactive platforms run by popular 24-hour news television stations (TVN24, Polsat News and TVP Info) have become increasingly popular. These broadcasters also use UGC to support professional coverage, with amateur video materials made by viewers. On special websites, users can upload their own material, most often recorded by non-professional devices, i.e. mobile phones. The films show natural disasters, road accidents or other extraordinary events not covered by traditional media.

Table 22.

The most popular websites by number of unique visitors in August 2011

No.	Website	Real users	Reach in % (of?)
1	Google	17,106,827	91.34
2	Onet.pl	13,446,852	71.80
3	YouTube.com	12,314,993	65.76
4	Wirtualna Polska-Orange	12,239,231	65.35
5	Nk.pl	12,194,980	65.12
6	Facebook.com	12,179,280	65.03
7	Allegro.pl	11,651,529	62.21
8	Gazeta.pl	11,150,118	59.54
9	Interia.pl	11,066,508	59.09
10	O2.pl	9,886,161	52.79
11	Wikipedia	7,432,437	39.69

Source: "Facebook dogonił Nk.pl, YouTube przed WP i Orange" ("Facebook has caught up with Nk.pl, YouTube ahead of WP and Orange"), *Wirtualne Media*, 24 October 2011, <http://www.wirtualnemedial.pl/artykul/facebook-dogonil-nk-pl-youtube-przed-wp-i-orange> (accessed 30 October 2011)

3.1.2 Social Networks

In 2010, Poles' activity on social network websites was higher than the European average. According to a Eurobarometer survey, the share of Polish society using social networks accounted for as much as 43 percent, whereas the same index for all EU countries was 35 percent.⁷⁵

75 "43 procent Polaków korzysta z Naszej Klasy lub Facebook'a" (43 percent of Poles are using Nasza Klasa or Facebook), *Wirtualne Media*, 18 October 2010, at <http://www.wirtualnemedial.pl/artykul/43-proc-polakow-korzysta-z-naszej-klasy-lub-facebook> (accessed 13 February 2011).

Table 23.

The most popular social networks by number of unique visitors (real users) in August 2011

	Name	Number of real users	No of visits	Reach (% of total population)
1	Nk.pl	12,194,980	n/a	65.12
2	Facebook.com	12,179,280	n/a	65.03
3	Gazeta.pl	6,529,150	364,967,684	34.86
4	Grupa Onet.pl	6,509,285	172,657,406	34.76
5	Interia.pl	5,480,964	121,740,007	29.27
6	Wirtualna Polska-Orange	4,396,954	40,400,015	23.48
7	Google	3,715,089	n/a	19.84
8	GG Network	3,585,377	61,985,507	19.14
9	O2.pl	3,219,755	56,026,123	17.19

Source: “Najpopularniejsze serwisy tematyczne w sierpniu 2011” (The most popular thematic internet sites in August 2011), *Wirtualne Media*, <http://www.wirtualnemedial.pl/artykul/najpopularniejsze-serwisy-tematyczne-w-sierpniu-2011-roku/page:3> (accessed 30 October 2011)

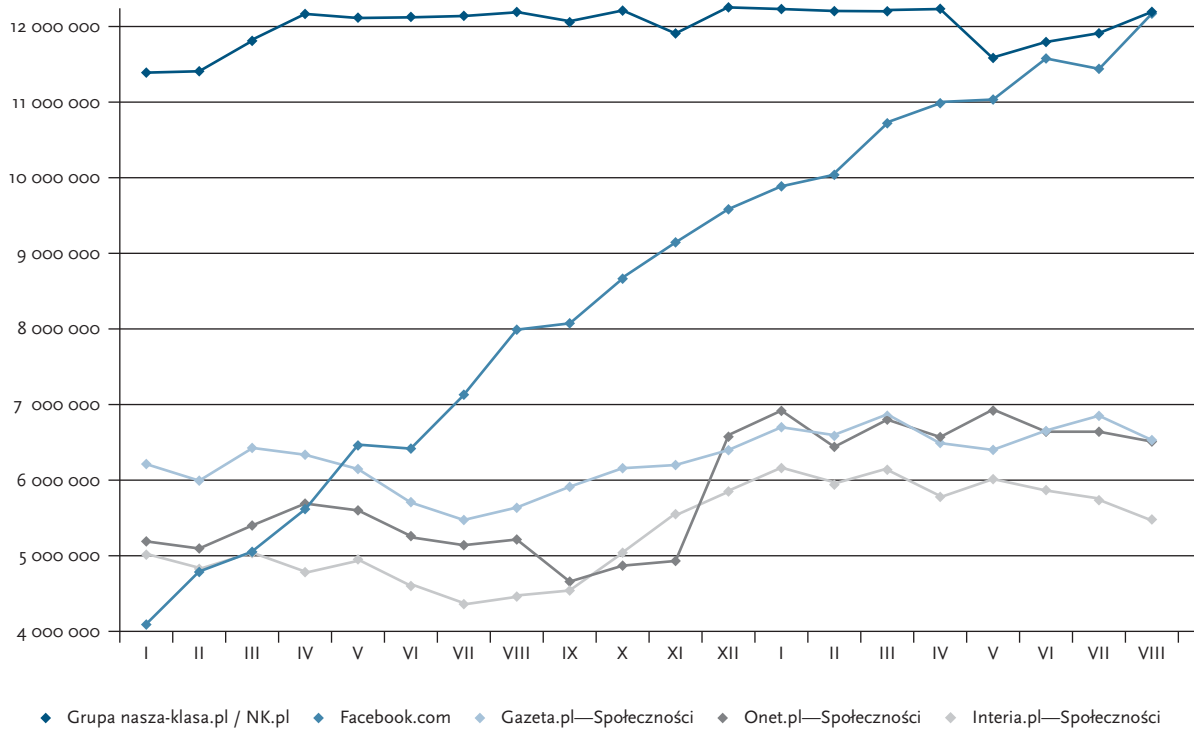
As discussed in the previous section, nk.pl (formerly Nasza-Klasa.pl) was the first Polish social network website to be established and the most popular. However, throughout the year 2010, three million new Polish users joined Facebook, while nk.pl had only maintained the number of its users. In 2011 Nasza Klasa undertook extensive rebranding, including changing its domain name to nk.pl and providing new functionalities in order to become a more universal social network, focused not only on finding school pals but also playing games or selling goods and services by a link to the popular Allegro platform.

Clearly, nk.pl and Facebook are top players on the market. This should not be a surprise, however—both had been created as social networks, while their competitors, mentioned above, had treated social networking as a value-added service to the core function, which was UGC.

Generally, the popularity of social networks has been on the rise. Much of this expansion can be obviously attributed to Facebook’s growth. However, the followers—social networks within Gazeta.pl, Onet.pl and Interia.pl—also noted some increase in popularity in the end of 2010 and throughout 2011.

Figure 6

The most popular social networks by number of unique visitors in the period January 2010–August 2011



Source: Najpopularniejsze serwisy tematyczne w poszczególnych miesiącach (The most popular thematic internet sites in August 2011), *Wirtualne Media*, <http://www.wirtualnemedia.pl/artikel/najpopularniejsze-serwisy-tematyczne-w-sierpniu-2011-roku/page:3> (accessed 30 October 2011)

3.1.3 News in Social Media

Up to 16 percent of internet users in Poland run a blog. Blogs are most popular among internet users aged under 24, while people over 45 are least interested in them. Half of social media users spend more than two hours a week on them, and 26 percent more than five hours a week. For half of users of social networks over 45, the weekly usage ratio does not exceed an hour a week.⁷⁶

In the 2009 survey by Millward Brown SMG/KRC, maintaining relations with colleagues and acquaintances was found to be the main incentive for using social networks. Polish users of social network services have an average of 202 contacts linked to their profiles, whereas, by comparison, the figure is 29 in Japan.⁷⁷ Discussion of topics that appeal to users accounted for 18 percent of these.

76 “Co szósty polski internauta prowadzi bloga” (Every sixth Polish internet user runs a blog), *Wirtualne Media*, at <http://www.wirtualnemedia.pl/artikel/co-szosty-polski-internauta-prowadzi-bloga> (accessed 13 February 2011).

77 “Ilu znajomych w serwisach społecznościowych ma polski Internauta?,” *Wirtualne Media*, 15 October 2010, at <http://www.wirtualnemedia.pl/artikel/ilu-znajomych-w-serwisach-spoecznościowych-ma-polski-internauta> (accessed 13 February 2011).

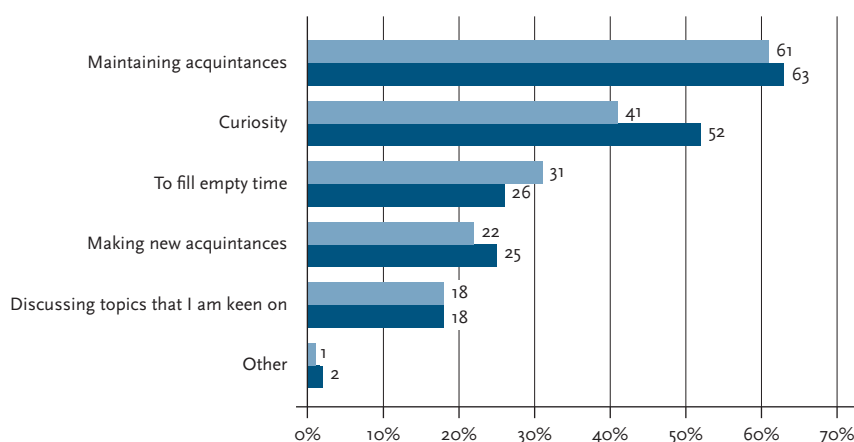
The activity of internet users is on the rise. In June 2009, 37 percent of internet users declared active participation in social groups/internet forums, compared to only 20 percent in March 2005. Internet social groups are still new in Poland. Older users of the internet have been looking primarily for entertainment and social contacts, but for younger ones social media are becoming the main venue of social interaction. In a few years, when they enter the consumer market themselves, they are bound to reflect their consumption patterns in internet social groups.⁷⁸

In January 2012 in a *Newsweek Polska* opinion poll of 800 respondents aged 15–50, 57 percent said that they thought that the internet was the most important news source for Poles; traditional television got 27 percent, “None of Them” 7 percent and “Don’t Know” 9 percent. “Our results are therefore ideally in line with the recent eMarketer poll, in which almost one-third of respondents younger than 25 said that their daily time spent watching television was less than 15 minutes.”⁷⁹

According to NetTrack research, in autumn 2011 about 55 percent of people living in Poland had internet access, so there is room for growth. Wider use of the internet by the population aged over 50 and availability of broadband internet are other factors speeding up the number of web users.⁸⁰

Figure 7.

Why do you visit social networks? Age range 15–75 (% of total answers), 2008 and 2009



Source: Serwisy społecznościowe w Polsce 2009, badanie D-Link Technology Trend, conducted by Millward Brown SMG/KRC, see <http://www.slideshare.net/dlinkpl/serwisy-spoecznościowe-w-polsce-1779250> (accessed 30 October 2011)

78 Marcin Grygielski, “Konsumenci w mediach społecznościowych” (Consumers in social media), at <http://www.networkmagazyn.pl/konsumenci-w-mediach-spoecznościowych> (accessed 14 October 2011).

79 Przemysław Pająk & Marek Rabij, “Nadchodzi telewizja przyszłości” (Here comes the television of the future), *Newsweek Polska*, 30 January–5 February 2010, p. 49.

80 Magdalena Lemańska, “Portale społecznościowe idą w górę” (Social portals are going up), *Rzeczpospolita*, 24 October 2011, p. B7.

3.2 Digital Activism

3.2.1 Digital Platforms and Civil Society Activism

Among politicians, blogs have become more popular as an online communications channel with the electorate. This trend of politicians establishing their own online comment spaces started as early as 2004. The number of blogs written frequently by politicians has grown rapidly ever since, even resulting in the establishment of websites to monitor all of them and list new posts.⁸¹ Blogs are convenient for politicians, since they give them the opportunity to present their views to voters without any mediation, which means that the views of the politician can be expressed unaltered and unabridged. Moreover, content presented in blogs is often used as input to online articles presented on news websites, such as Onet.pl, Wp.pl, etc., and therefore blogs can be seen as a vehicle for further dissemination of content and news creation.

Apart from blogs, politicians tend to register their personal profiles on social platforms such as Nasza Klasa and Facebook. The profiles are either maintained by the politicians themselves, or by designated staff. Only a few of them get really popular; the best are those that react to internet users' comments or tend to reveal gossip and behind-the-political-scene news, which are then picked up by tabloids and sometimes quality media.

At the beginning of the century the majority of blogs not written by politicians were devoted to personal issues and emotions, in television soap opera style through thousands of individual stories. The first successful political blog was written by Kataryna (Kataryna.blox.pl), who beat the mainstream press in providing in-depth analysis of the 2004–2005 “Rywingate” scandal, in which influence over changing the media law was offered for a bribe. Subsequently, a parliamentary investigative commission interrogated witnesses in the “Rywingate” affair on live television.

Internet authors who are not politicians are very seldom able to get through to mainstream media, but some of them succeed. Sometimes internet journalists even beat their traditional media colleagues. Igor Janke, the author of Salon24.pl, an internet platform for citizen journalists and bloggers, was granted the only interview with President Barack Obama during his May 2011 European trip.⁸² The other media noted this fact; *Rzeczpospolita*, where Janke also works, published the interview and a box explaining how it was granted.⁸³

In 2006 the blogger Bernardo (Bernardo.salon24.pl) asked several Polish journalists whether they had requested their martial law period files from the Institute of National Remembrance (IPN).⁸⁴ He listed the answers he got in his blog. The vetting of journalists was a hot topic at the time. In 2008 the story about the blogger's action was included into the Polish-language scholastic aptitude test essay for high school students.⁸⁵

81 See <http://blogi-politykow.pl/> (accessed 29 May 2011).

82 Igor Janke, “Polska może być światowym liderem (Poland can be a world leader),” <http://lubczasopismo.salon24.pl/obamawpolsce/post/310730,obama-dla-salon24-pl-polska-moze-byc-swiatowym-liderem>, accessed 29 May 2011.

83 “Amerykański prezydent wybrał Salon24.pl” (The American president has chosen Salon24.pl), *Rzeczpospolita*, 30 May 2011, p. A6.

84 Institute of National Remembrance (IPN)—preserves the memory of the casualties of World War II and the post-war period; patriotic traditions of the fight against occupiers, Nazism and Communism; citizens' efforts to fight for an independent Polish State, in defense of freedom and human dignity. See http://www.ipn.gov.pl/portal/en/1/2/Institute_of_National_Remembrance__Commission_for_the_Prosecution_of_Crimes_agai.html (accessed 12 February 2012).

85 Igor Janke, “Nieznosna szybkość bloga” (The unbearable speed of a blog), *Rzeczpospolita Plus Minus*, 10–12 November 2006, p. 6.

Until the Anti-Counterfeiting Trade Agreement (ACTA) revolt at the beginning of 2012, the most visible case of social activism using a digital platform was the “Cross Action” on 9 August 2010, initiated on Facebook by a young man, Dominik Taras. After the Smolensk airplane disaster on 10 April 2010, in which 96 people died, including the Polish President Lech Kaczynski, a group of pious Roman Catholics took up a 24-hour vigil in front of his palace in central Warsaw, demanding construction of the late president’s monument. They gathered, sang and prayed under a wooden cross. Mr Taras, working as a cook in the nearby Academy of Art, called for a late night gathering of those who were against this idea. Unexpectedly, several hundred people showed up, and soon the event, lasting for several hours, was transmitted live by 24-hour news television channels, attracting even more participants.

No to ACTA

In mid-January 2012 more than half million of Polish internet users protested against the signing of the ACTA protocol by a representative of the Polish government in Tokyo. A dozen fan pages on Facebook, with names like “Freedom for the Internet,” “No to ACTA,” “Stop ACTA,” “A million signatures—No to ACTA” were set up and momentarily supported by as many as 400,000 internet users. The largest street demonstrations in 20 years followed in several Polish cities, despite the freezing cold. ACTA opposition ran across political and social divisions, uniting the intelligentsia with football fans.

The government’s official pages were hacked by a group of Anonymous and Polish Underground “hacktivists”; a 23-year-old internet fan from Wrocław hacked the prime minister’s page using the simplest login and password one can imagine (admin and admin1). PAP, the official press agency, published a picture of the prime minister’s laptop (all ministers proudly use them at government sessions) with the login attached to his device.

No wonder the following week the prime minister froze the ratification of ACTA and for seven hours patiently listened to and sometimes challenged angry internet users gathered in his office. “The prime minister lives in an archaic era of television,” concluded Marek Jerzy Minakowski, an internet user who turned down the invitation, as did many others.⁸⁶

The government has since tried hard to calm down internet users, working with them through the newly organized (end of 2011) Ministry of Administration and Digitization. On its internet page the ministry answered about 6,000 queries from the 6 February 2012 debate;⁸⁷ the Internet Charter of Fundamental Rights and Freedom has been under preparation by the digitization minister, Michał Boni, aiming to balance freedom of the internet and ownership rights.⁸⁸

There are plenty of different social actions on the internet; local initiatives, such as “Change the Dead Ski Jump into a Real Snowpark” in Warsaw; by patients, such as a petition for the availability of long-acting insulin for state-insured patients, which collected 10,000 signatures in one week. The internet has also changed the way

86 “Pół miliona internautów protestuje w sprawie ACTA” (Half a million internet users protest against ACTA), *Gazeta.pl*, at http://wiadomosci.gazeta.pl/wiadomosci/1,114877,11025934,Pol_miliona_internautow_protestuje_ws_ACTA_ekspert_html, and <http://minakowski.tek24.pl/> (accessed 18 February 2012).

87 See <http://mac.gov.pl/dzialania/acta-patenty-i-innowacja-czyli-cz-ii-odpowiedzi-na-pytania-zgloszone-w-czasie-debaty-6-lutego/> (accessed 7 March 2012).

88 “Wolność w sieci się tworzy” (Internet freedom is being created), *Gazeta Wyborcza*, 6 March 2012, p. 8.

money is collected for social causes; in the Good Hope Virtual Clinic project you could pick up whatever you wanted to fund and locate your avatar on it. In a month the clinic raised PLN 85,000 (about US\$ 26,800); however, the traditional media, TVP and TVN24, also publicized the project.

There are also examples of social internet activism by extreme groups, the best example of which is the project Redwatch. The website was created in 2006 by the neo-Nazi organization Blood & Honor, and its basic aim is to publish photographs and personal details of people whom the group considers “enemies” or “traitors” of the white race. Those include left-wing and liberal activists, foreigners living in Poland, people of non-Polish ethnic backgrounds, gays and lesbians. Although the activity and content presented on the website is banned in Poland, any legal actions proved to be ineffective as websites were located on servers outside the country, usually in the U.S., where freedom of speech protections are more inclusive than in Europe.

In 2011 Polish Foreign Minister Radek Sikorski, acting through his attorney, demanded and succeeded in temporarily forcing the switch-off of internet “below the line” forums by *Fakt* and *Puls Biznesu*. “Racism, aggression and hate speech on Polish internet forums are beyond imagination. Readers from all over the world can read these posts and form their opinions about Poland,” argued Sikorski.⁸⁹ Since then the readers’ contributions in the tabloid *Fakt*, owned by Axel Springer Polska, have been monitored. On the internet pages of the other tabloid, *Super Express*, one needs to register to post a comment.

3.2.2 The Importance of Digital Mobilizations

Digital mobilizations have become of greater importance with the development of the internet (see section 1). However, as the demographic features of the average internet user differ significantly from those of the general public, the relevance of social activism online to mainstream society may be limited. Strong street protests against the signing of the ACTA protocol in January 2012 might mark a watershed; from now on the virtual reality will be able to influence the political one directly.

The business community is fast harnessing the internet as a tool for promotion. In only four months (October 2010–February 2011), the number of Polish company fan pages on Facebook tripled from 11,000 to 33,000. A Facebook fan page was planned as a main tool of promotion for the new Polsat Television show “Must be the Music” and active participation by voting on the internet was a feature.⁹⁰

3.3 Assessments

Digitization broadened the news offer of traditional electronic and print media, but also created alternative sources of news on the Internet, with stand-alone news portals and internet versions of traditional media. Internet authors are contributing to the broader spectrum of news through their own blogs, comments,

89 “Fakt wyłączył komentarze internautów po pozwie Sikorskiego” (Fakt switched off internauts’ comments after Sikorski’s motion), *Gazeta Wyborcza*, 9 May 2011, at http://wyborcza.pl/1,75478,9562895,_Fakt__wylaczy_l_komentarze_internautow_po_pozwie_Sikorskiego.html (accessed 24 May 2011).

90 Sylwia Czubkowska, “Facebookowa potęga marketingu” (Facebook’s marketing power), *Dziennik Gazeta Prawna*, 4-6 February 2011, p. A5.

photos and taking part in internet-originated actions, such as flash mobs or support groups on Facebook, which sometimes gain snowballing popularity.

The protest against the signing of the ACTA protocol in mid-January 2012 mobilized more than half a million Polish internet users in just a few days only. Their strength was a PR disaster for a party supported by younger and more educated voters: its image aged overnight. The ACTA protest proved that in the public life of Polish internet users can make a difference, even if in this case the aim was narrow and directly related to internet users' most vital interests. The party that will be able to use the internet most effectively in similar ways may win the next elections.

The “Day without Smolensk” campaign, organized in response to the frequency with which the tragic plane crash that took President Kaczynski's life had begun to dominate the media and the political debate in the country, and often exploited for various groups' political aims, quickly mobilized 100,000 fans.⁹¹ This is a response many politicians could only dream about; no surprise then that they try to use these actions for their own benefit—which was precisely the reason the authors of “Day without Smolensk” cited for eventually removing their group from Facebook.

Whether these are online-only actions or events in the real world, organized through the internet, they are increasingly attracting the attention of electronic and print media, thus creating more news and contributing to the plurality of news and opinions.

In general, Poland is moving fast from digital irrelevance to digital immersion. With EU money secured for the wide use of broadband access, this process will speed up in the next two to three years. Many indicators suggest Poles are more active on the internet than the average European. The younger generation is particularly active online, treating the internet as the prime venue of expression and communication with their peers. The internet has also opened unlimited venues for expression for every minority or political grouping, and for the handicapped, persecuted, and marginalized groups—but also for their enemies.

Many of the internet comments posted on the most popular sites and signed only by a pen-name, are offensive and potentially libelous. For a long time, not much has been done about it. The site operators wrongly claimed not to be responsible for the text of comments, and prosecutors refused to charge those engaged in “hate speech.”

The 2011 legal action by Foreign Minister Radek Sikorski that forced the temporary switch-off of internet forums by Axel Springer Polska, the publisher of the biggest tabloid *Fakt*, reversed the trend. It showed that there is a chance to try to balance the two imperatives: freedom of expression and freedom from hate speech.

91 “Dzień bez Smoleńska odwołany” (Day without Smolensk cancelled), Onet.pl, 26 January 2011, at <http://wiadomosci.onet.pl/raporty/katastrofa-smolenska/dzien-bez-smolenska-zostal-odwolany,1,4156203,wiadomosc.html> (accessed 22 May 2011).

4. Digital Media and Journalism

4.1 Impact on Journalists and Newsrooms

4.1.1 Journalists

Digitization has changed journalists' work as much as Gutenberg changed the way the written word was spread in medieval times. In the pre-internet and pre-digital era, a newspaper's and magazine's clippings plus people listed in a personal phone and address book were the main sources of information for a professional journalist. The official phone directories followed them. You also had to have a shelf of dictionaries, census yearbooks and other publications, such as *The World Almanac and Book of Facts*, indispensable from 1868, when it was originated. But no longer.

Paper clippings are forgotten; internet searches are faster, better and go deeper. *The World Almanac* is still published,⁹² but journalists, at least the younger ones, do not check any books anymore. The internet is king; however, the more you trust it, the more painful is the discovery one day that even Wikipedia cannot be taken for granted.

The new phenomenon of the last few years in journalists' work has been the growing use of Facebook, Twitter and other social networks for getting news or tips. However, they should be used only after confirming the information from these sources through other, trusted means.

“City councilors, mayors' clerks, even policemen are sharing news with their trusted ones on Facebook or Twitter on their way home from work, or during a lunch break,” explains Maciej Stempurski, editor of Warsaw's section of the national daily *Rzeczpospolita*. “The only thing you need is to be included in their circle of friends. The same goes for lawyers, doctors, and teachers. Social networks are becoming like the personal address books of the last century, but they are faster, bigger and interactive. This is where a lot of stories start today.”⁹³

92 See <http://www.worldalmanac.com/> (accessed 12 February 2012).

93 Interview with Maciej Stempurski, editor of *Życie Warszawy*, city part of *Rzeczpospolita* national daily, Warsaw, 20 February 2011.

There is a risk that without personal contact of the journalist and source, bogus information goes into print, or more often onto the internet pages, which have no deadlines and are always hungry for news. Mr Stempurski recalls:

This happened with the story about a Polish contemporary sculpture supposedly lost in Brussels. It went to our internet pages, but after few frantic calls, we found out that the internet information was totally untrue. This is why I trust the older generation of journalists more, those who prefer to go where the story happens, see for themselves, and talk to the people. But there is less money and time to do that. Deadlines and cost-savings are cutting journalists off from the real world. The internet becomes more and more a world in itself.⁹⁴

Digitization increased the number of people quoted in the average story. They are simply more available, as long as they pick up their mobile phones. The widespread use of mobiles made politicians, officials and professionals much easier to track and get to comment on the news. Their powerful secretaries or assistants lost their grip on the bosses' availability, as long as the journalist manages to get the mobile phone number of the person he or she is looking for. Also, "it is much easier now to get more a balanced perspective on the story, and we do require that from our reporters. Or at least they can get somebody from academia, who has an opinion on the topic," explains Mr Stempurski.⁹⁵

One of the best Polish investigative journalists, Anna Marszałek, has strong opinions about changes the internet imposed on 21st century journalism:

For me, the most important change in journalism of the internet era is the way the story has to be written. You need to put all the words that are important for search engines right in the lead, otherwise your story will not be noticed. Not only you do not create the headline, which was the case in paper editions, but also the lead is not written by you, but by specialized internet editors. The whole story must be done in "Google-oriented fashion" and published immediately because the others may do it faster.⁹⁶

In 2009 Tomasz Machała, a journalist at television Polsat's news bulletin *Wydarzenia*, set up an internet site *Kampanianazywo.pl* devoted to political news. Being only a television, not print, journalist, all his life, he notes that the internet has been diminishing traditional journalism values, such as relying on two independent sources or giving the other side the opportunity to respond. "For me news portals on the internet are like the reporters desk at the Sejm (Polish parliament): you get news there which you can use at your own risk. And often we use it online without checking because on the internet you have to be the first, and we have no resources for verification anyway."⁹⁷

94 Interview with Maciej Stempurski, editor of *Życie Warszawy*, city part of *Rzeczpospolita* national daily, Warsaw, 20 February 2011.

95 Interview with Maciej Stempurski, editor of *Życie Warszawy*, city part of *Rzeczpospolita* national daily, Warsaw, 20 February 2011.

96 Interview with Anna Marszałek, Warsaw, 25 August 2011.

97 Interview with Tomasz Machała, Warsaw, 23 October 2011.

Mr Machała agrees that lowering the news standards in internet publications influences “old style” news sources, for instance press agencies. One of them, the Polish Press Agency published an election resignation statement of a well-known opposition politician that proved to be false. The only source for it was an e-mail supposedly sent from the MP’s parliamentary address.⁹⁸ “PAP charges so much for its services that it should have time and money to verify all the news it publishes,” says Mr. Machała.

The story of an “off-the-record” interview with Tadeusz Cymański, a PiS Member of the European Parliament (MEP), shows how difficult is to maintain traditional standards of journalism in print and online versions of the same publication. Mr. Cymanski was quoted in Wprost.pl, although from the very beginning of his telephone conversation with the journalist he had said the exchange should be private.

The online version of *Gazeta Wyborcza* published a critical commentary about it but then watered it down, arguing that the editor-in-chief of a paper version cannot be held responsible for all that is being published by the same title online.⁹⁹

4.1.2 Ethics

Definitely, the very existence of the internet and bloggers who feel free to write about public issues and to comment on the work of journalists can force the honoring of the ethical standards of the profession. There are no “letters to the editor” any more, which could be ignored or cut, rewritten or softened and published two months later, when nobody remembers what they were referring to. The comments are written right away, and only very few of them, containing slander, or offensive language or hate speech, are supposed to be eliminated. And there is always another option—the blogosphere, where under your own or a pen name you can write almost anything, very seldom being restricted by the owners of blog’s site, who are hungry for controversies that will bolster the number of visits.

The case of the blogger Katarzyna (*Katarzyna.blox.pl*) (see section 1.3.3) was a good example of breaches of privacy. Katarzyna, actually Katarzyna Sadło, who had been publishing her blogs on Blox.pl and Salon24.pl websites since 2006, began to attract the interest of the mainstream media. She gave phone interviews to the press but did not disclose her identity.

In May 2009, the owner of Salon24 website announced that Krzysztof Czuma, son of the Polish Minister of Justice, Andrzej Czuma, sent a letter to Salon24 seeking the removal of a false and offensive blog entry of “a Katarzyna.” Salon24 responded that the content of the blog posts did not concern Salon24, and therefore it would not be removed. However, Katarzyna announced that if Mr. Czuma would like to bring a civil lawsuit against her, she would reveal her personal data.

98 “PAP podała nieprawdziwą informację, że Beata Kempa nie wystartuje w wyborach” (PAP sends false information that Beata Kempa will not start in elections), *W sieci opinii*, at <http://wsieci.rp.pl/opinie/rekiny-i-plotki/Pierwsza-powazna-afera-tegorocznych-wyborow-Ktos-podszyl-sie-pod-Beate-Kempe> (accessed 23 October 2011).

99 “Utracona cześć Tomasza Lisa. Ciąg dalszy następuje” (Tomasz Lis’s lost honor. To be continued), *W sieci opinii*, at <http://wsieci.rp.pl/opinie/za-burta/Cenzura-w-Gazecie-Wyborczej-hipokryzja-we-Wprost> (accessed 23 October 2011).

Shortly after that, the daily *Dziennik* announced that it knew the identity of the blogger. The newspaper did not publish her name, but described her in a way that allowed for identification. Internauts identified Kataryna as Katarzyna Sadło. She revealed (tweeted) the contents of a text message, which she had received from Sylwia Czubkowska, a *Dziennik* reporter, in which then she urged Kataryna to disclose her identity and warned that otherwise the information may be used by the tabloid *Fakt*, owned by the same publisher, Axel Springer Poland. Kataryna sued Axel Springer, the publisher of *Dziennik* and the editors for violating her right to privacy. The case was settled out of court.¹⁰⁰

This incident led to a hot debate in the media about the ethics of writing under a pen name. Łukasz Warzecha, a *Fakt* journalist, wrote about it in his blog on Salon24: “99 percent of signed opinions about our work are anonymous to us anyway, because we do not know these people, even if they sign their names. Should I sue everybody who expressed the opinion that I am an idiot, who should not even be allowed to clean the streets?”¹⁰¹

The case of Eliza Michalik, a journalist with several media outlets, who was accused of plagiarism by internet users, provides an interesting example of the ethical watchdog role of the internet. In February 2007, the bloggers forum Salon24.pl stopped publishing Michalik’s contributions after many readers sent the site original texts she had used as the basis of her articles. She did it without quoting the originals or mentioning them as a source. “Expelling her was a good and wise decision” commented journalist-blogger Krzysztof Urbanowicz. “Salon24 proved that it could apply ethical standards not only to journalists, but also to bloggers. Ms Michalik had been providing a lot of traffic for Salon24, initiating heated discussions there, but she had to leave anyway because she violated the ethical standards of journalism and intellectual property law.”¹⁰² Another form of scrutiny of her work was the setting up of a webpage, Elizawatch.blogspot.com, described as “A blog devoted to the publicist Eliza Michalik.”¹⁰³

This example proves that the era of the internet has stripped journalists of the exclusive power of explaining the news to the people. Now, with the tool of digital publishing and an endless audience online, citizens are becoming journalists themselves, or “netizens,” citizens of the net. They are able to control those who used to control the news. And they are doing it not only by writing on the net, but first of all by commenting on the journalists’ stories published there.

100 See <http://rychlicki.net/en/2010/10/26/5907/> (accessed 22 February 2011).

101 See <http://lukaszwarzecha.salon24.pl/106342,dziennik-demaskuje-kataryne> (accessed 26 February 2011).

102 Krzysztof Urbanowicz, “Salon24 wyrzuca blogerkę, która kradła cudze teksty” (Salon24 expels a blogger who was stealing others’ articles), at <http://mediacafepl.blogspot.com/2007/02/salon24-wyrzuca-blogerk-ktra-krada.html> (accessed 2 March 2011).

103 See <http://elizawatch.blogspot.com/> (accessed 2 March 2011).

4.2 Investigative Journalism

4.2.1 Opportunities

According to Mariusz Zielke, an investigative journalist in traditional and digital media:

The internet made a hell of difference in my work and helped me a lot. I do not see almost any dangers in the practice of using the internet, except when you trust absolutely all you read on it, but such an investigative journalist would not stay in the trade too long. Losing a reputation is easy; regaining it takes years.¹⁰⁴

Mr Zielke points out that in recent years the quality of internet sources has improved dramatically: “You have the National Companies Register and Lex—paid legal information, the register of companies and people in debt, you can also verify people and companies through the web. All your research may be done from your laptop, provided you know reliable sources of information.”

According to Ms Marszałek, there is also the other side of the coin: the internet puts well-documented stories, requiring months of work, in the same league as simple gossip and pure fantasy. Anybody can publish anything there; therefore, often original documents get posted, instead of the products of a journalist’s work. “The internet has been killing investigative journalism,” says Ms Marszałek, who, after a long career as an investigative journalist, in August 2011 decided to take a government job, heading the analytical department of Supreme Chamber of Control (*Najwyższa Izba Kontroli*, NIK).

Yet, Ms Marszałek takes a positive view of the advantages of using the web:

I am not saying, though, that the internet does not make the life of an investigative journalist easier. There are great tools, such as documents of registered companies that you can study online and great stuff on social networks, such as Yahoo, You Tube or Nasza Klasa. It used to be extremely difficult to get personal information about the people you were following, and now you are being given the pictures and stories from their private life on Facebook or Nasza Klasa. And you can also check the people they know, listed as friends. Sometimes this is worth days or weeks of hard investigative work¹⁰⁵.

4.2.2 Threats

The fast exchange of information enabled by digital technology also makes it possible to quickly spread the news about investigative journalists’ work, even before it is ready to publish. Mr Zielke recalls his story from the time he worked at non-digital titles; it dealt with financial fraud at a leading NGO, connected with

104 Email from Mariusz Zielke to the reporters, 21 February 2011.

105 Interview with Anna Marszałek, Warsaw, 25 August 2011.

people inhabiting the front pages, business moguls and the mafia. After a long period of research he was ready to publish.

Suddenly, a very similar story appeared in a leading paper. Accusations against the same NGO were presented, but in much softer manner. Obvious fraud was called “financial irregularity” and the story was buried on the back pages. Result: the editors of his own paper watered down his piece, arguing it was not news anymore. Then he found out that the author of the similar story completed his work seven months earlier, but it was shelved until there was a buzz around town about Zielke working on the same topic. “If I had a digital title of my own at that time, I would have published my story in full,” says Zielke, pointing out that digital media make authors much more independent from editors, especially those who work according to the old rules. Zielke says:

When I started the NGI24 (Niezależna Gazeta Internetowa²⁴, Independent Internet Newspaper²⁴) in 2009, promising to publish investigative journalists’ work, I had a dozen or more great stories, which were not published in the leading papers, no matter which political side they were on. Initially, I started to publish them, but soon I realized that this would lead me straight into court. I could not afford that; therefore, I stopped publishing the work of others. Nowadays I face four lawsuits anyway, after disclosing that a company registered on the Warsaw Stock Exchange tried to raise capital without disclosing that its board member broke the law and was convicted.¹⁰⁶

In general, one may say that the political pluralism of the media market in Poland makes investigative journalism possible and lively, although not without obstacles. On the other hand, media tabloidization driven primarily by the internet is the prime enemy of this genre, which requires months of analyzing documents and endless interviews just to complete one story. “Make it sexy” is the editors’ mantra. The stories are being beefed up to get more attention but also watered down in fear of legal and commercial (withdrawal of advertisers) consequences.

4.2.3 New Platforms

The migration of investigative journalism to the internet is an option only in theory because traditional media rarely pick up these kinds of stories from digital outlets, and without the visibility there is no way to survive economically. The example of NGI24 proves that the internet opens new venues for investigative journalism, but only for a limited time. One positive: you actually know who reads your material. In its two years of existence NGI24 had over 7,000 institutional readers. The majority of them were from the Ministry of Internal Affairs and the stock exchange commission; others were from the police, census office, national bank, public television and leading dailies.¹⁰⁷ But there was no mainstream media follow-up on his stories.

¹⁰⁶ Email from Mariusz Zielke to the reporter, 19 February 2011.

¹⁰⁷ Email from Mariusz Zielke to the reporter, 19 February 2011.

“The power of internet publications is still very limited. Unless your story is being picked up by leading print media or the most popular internet sites,” says Mr Zielke. “I have no satisfaction at all that the biggest bribery scandal in Poland, including military officers and foreign companies representatives, under investigation from 2011, was signaled on NGI24 two years earlier, but nobody paid attention to it then.”¹⁰⁸

However, the fact that the new category of “internet media” was created in 2009 as part of the best known media awards in Poland (the Grand Press awards), and that Mr Zielke was nominated for one of them for his investigative journalism published in NGI24, proves that digital media are becoming more important in this genre, broadening its scope and strengthening the impact. But they still have far to go.

According to Ms Marszałek:

There are three types of journalists’ blogs in Poland.

The first type is the one required by the company. People like blogs, so if you work for the media, you have to have a blog. They are dull and do not reveal anything substantive, typical routine work. TVN requires that from their journalists and the results are poor.

The second type of blogs is being written by those journalists who have to write and their publications cannot publish in print all of what they produce. The internet is endless, so you go there with the overflow. In these blogs sometimes you can find interesting and useful information, but rarely something really new, because it is content of secondary quality, not fit to print.

The third type of blogs is the real jewels, written by those who master the language, know the culture, and use their keyboards with art. If there is any good stuff in blogs written by journalists, you find it there.¹⁰⁹

In April 2011 the *Press* monthly presented its second ranking of the best journalists’ blogs, as judged by their peers. Five of the top 10 were written by authors of the opinion weekly *Polityka*, others by journalists of other leading newspapers. The willingness to discuss the content with the readers—thereby contributing to blog’s entries “below the line” (comments)—was among the criteria used for the ranking.

4.2.4 Dissemination and Impact

Investigative journalism has definitely won its place not only in the leading newspapers and opinion weeklies (*Gazeta Wyborcza*, *Rzeczpospolita*, *Dziennik Gazeta Prawna*, *Polityka*, *Newsweek*, *Wprost*), but also among the television stations: TVN (*Uwaga*, *Superwizjer*), Polsat (*Interwencja*), TVP2 (*Magazyn Ekspresu Reporterów*).

108 Interview with Mariusz Zielke, Warsaw, 28 February 2012.

109 Interview with Anna Marszałek, Warsaw, 25 August 2011.

It means that the availability of news on the internet prompts publishers and broadcasters to offer pieces of investigative journalism also to their readers/viewers.

The problem is that what is being offered under the label of “investigative journalism” fits the classic description of the genre (unearthing things that were supposed to be hidden) less and less. Investigative journalism has become a tool in the political fight between mainstream media, liberally oriented, more in tune with the ruling PO party, and the more conservative, sometimes nationalistic media, more supporting the right-wing part of the opposition (PiS) party.

According to Leszek Misiak, a representative of the latter group, investigative journalism in Poland is sick. “The best indicator of the quality of investigative journalism in Poland is in the coverage of the Smolensk catastrophe,” says Mr Misiak.¹¹⁰

The mainstream media were pushing the theory that originated with Russian sources—that Polish pilots were responsible for this crash. Nobody wanted to follow up another theory, that it was an assassination. In the case of a catastrophe of such magnitude, in which so many VIPs died, this theory should be present on the front pages from the very beginning. Unfortunately, except for *Gazeta Polska*, *Nasz Dziennik*, *Radio Maryja*, *TV Trwam* and sometimes the tabloids, the majority of opinion-making media was following the Russian theory.¹¹¹

Contrary to Mr Misiak’s opinion, a year after the Smolensk catastrophe several films and books about it were released, the majority of them done by investigative journalists. Among them was a book by the *Gazeta Polska* writer, Leszek Szymowski, who claimed to have discovered that the presidential airplane was destroyed by a bomb after an emergency landing and the survivors were executed with firearms. Neither the Russian nor the Polish commission investigating the catastrophe supports any of these revelations. “I read all three ‘investigative books’ about the 10 April 2010 catastrophe,” says Leszek Gadowski, a well-known investigative journalist. “There is almost no independent investigation there, except for Russian propaganda and some exiguous notes.”¹¹²

From 2006 until early 2010 conservative investigative journalism was present in public television with the magazine program *Misja Specjalna* (*Special Mission*) of Anita Gargas, the producer of a documentary film *10.04.10* about the Smoleńsk crash. All the right-wing media establishments, mentioned earlier by Mr Misiak, have their online versions with their own digital television programs. There are also several blog pages (*Salon24.pl*, *Niezalezna.pl*, *Wpolityce.pl*, *Niepoprawni.pl*, *Blogpress.pl*) dominated by right-wing bloggers.

110 On 10 April 2010, near Smolensk (Russian Federation), 96 Polish VIPs, including the President Lech Kaczyński and the First Lady, died in an airplane crash.

111 “Niezalezna.pl—my informujemy oni kłamią, Leszek Misiak o dziennikarstwie śledczym” (Niezalezna.pl—We inform, they lie, Leszek Misiak on investigative journalism), at <http://niezalezna.pl/5151-leszek-misiak-o-dziennikarstwie-sledczym-cz-1-4> (accessed 28 August 2011).

112 “Chcę otaczać się niepodległymi Polakami” (I want to be surrounded by independent Poles), interview with Witold Gadowski, at <http://www.tu154.eu/index.php/archives/2612> (accessed 18 October 2011).

Salon24.pl is the most popular socio-political blog site of recent years. “In the Polish context, it is a model blog site, because different political orientations and experts are present there, which creates a politically balanced, pluralistic media outlet,” is the assessment of Salon24.pl by authors of a report by an NGO tied to the PiS party, Stowarzyszenie Polska Jest Najważniejsza (Association Poland First). However, apparently even this site is not perfect:

Salon24 ignites conflicts with bloggers by cancelling their contributions or hiding them because of political reasons or criticism of the blog site operator. The rules of contribution were changed five times at the end of 2009, and about 100 blogs were cancelled or suspended indefinitely.¹¹³

According to Igor Janke, the blog owner, these accusations are the result of a misunderstanding. The policy of Salon24.pl is to eliminate invectives, libel and bad taste, but this has been done almost entirely by the bloggers themselves, who are in control of what is going on in commentaries under their entries. They may cancel them and block the user if they consider his/her input as too offensive. Mr Janke explains: “I am quite sure that more than 100 users were banned this way, but we do not control this. We do accept it, because at Salon24 a certain level of debate has to be maintained. There are many other blog platforms without any rules; therefore, freedom of information is not infringed on by us. The administrator of Salon24 intervenes only when asked by a user to eliminate input that breaks the law.”¹¹⁴

4.3 Social and Cultural Diversity

4.3.1 Sensitive Issues

The most sensitive issues in Polish society are connected with history, religion and social composition. Anti-Semitism and in general Polish-Jewish relations, as well as relations with Russians and Germans, are the top three sensitive historical issues. Abortion, sexual abuse (especially incest), gay and lesbian rights are the top three social issues. These are the issues the Helsinki Human Rights Foundation lists as its top priorities for action: child rights, legal assistance to refugees and migrants, the rights of minorities, European Monitoring Centre on Racism and Xenophobia (Hfhrpol.waw.pl/en).

Gay rights and abortion were so controversial that decisions about them delivered by Polish courts made their way to the European Court of Human Rights (ECHR) in Strasbourg, the highest such court in the EU. In May 2007, Strasbourg decided on the case of *Bączkowski and Others v. Poland*, dealing with the Warsaw ban on a Lesbian, Gay, Bisexual, and Transgender Pride Parade two years earlier. Poland was reprimanded for violating several articles of the European Convention on Human Rights.¹¹⁵

113 Teresa Bochwic, Stowarzyszenie Polska Jest Najważniejsza, *Raport o zagrożeniach wolności słowa w Polsce 2010–2011 (Report about Threats to Freedom of Expression in Poland 2010–2011)*, p. 46, at <http://wpolityce.pl/artykuly/15695-raport-o-zagrozeniach-wolnosci-slowa-w-polsce-w-latach-2010-2011-stowarzyszenia-polska-jest-najwazniejsza> (accessed 18 October 2011).

114 Interview with Igor Janke, Warsaw, 22 October 2011.

115 Nations in Transit, *Country reports 2008: Poland*, at <http://www.freedomhouse.org/template.cfm?page=47&nit=463&year=2008> (accessed 21 February 2011).

Poland lost another strategic case in the ECHR during the same year, that of Alicja Tysiąg, a Polish woman who was denied the right to an abortion. She was granted compensation of €25,000 (US\$ 39,000), and the Polish government was instructed by the ECHR to construct a mechanism for ensuring access to abortion when permitted by law.¹¹⁶

There is still some violence, anti-Semitism, racism and gay bashing in Poland; however, tolerance in recent years has been on the rise.

More than 400 cases of racist and extreme-right violence and hate speech were documented in the “Brown Book 2009–2010,” published by the anti-fascist “Never Again” civic association.

In March 2009, unidentified perpetrators tried to firebomb the former Piaskower Beit Midrash synagogue in Białystok. In August 2009, four Roma graves were desecrated by racists in the local cemetery in Szczecinek. In January 2010, a 27-year-old assailant severely beat up a citizen of Ghana. In July 2010, Bielawa fans booed and threw a banana at a black player from Czarni Żagań FC. But no political party has anti-Semitic or anti-immigrant slogans.

For the ODIHR Hate Crime Report 2010, the Campaign Against Homophobia Association reported about 228 homophobic crimes and incidents committed that year. Ninety-two percent of these cases had not been reported to the police. Among the 19 cases reported, in five perpetrators were punished, while eight cases were not resolved, and six cases were dismissed for various reasons.¹¹⁷

Sport stadiums are frequently the scene of racist incidents. Between September 2009 and March 2011, about 130 racist, xenophobic or anti-Semitic incidents were recorded in Polish stadiums. For the Euro 2012 football championships, the “Never Again” association designated “Inclusivity Zones” in hundreds of public spaces across Poland and Ukraine as welcome and open places, where differences will be valued.¹¹⁸

4.3.2 Coverage of Sensitive Issues

There is no legal problem with the coverage of controversial social issues in media, but there is a difference in attitude to them. The sensitive issues are covered often and in detail by left-wing and liberal media (*Gazeta Wyborcza*, *Polityka*, *Wprost*, *Newsweek*) and played down or ridiculed by applying the label of “political correctness” to them by the right-wing and nationalistic titles (*Rzeczpospolita*, *Nasz Dziennik*, *Gazeta Polska Codziennie*, *Gazeta Polska*, *Gość Niedzielny*).

116 Nations in Transit, *Country reports 2008: Poland*, at <http://www.freedomhouse.org/template.cfm?page=47&nit=463&year=2008> (accessed 21 February 2011).

117 Info from http://www.ilga-europe.org/home/guide/country_by_country/poland/KPH-submission-OSCE-Hate-Crime-Report-2010 (accessed 30 April 2012).

118 Info from “Never Again” webpage, <http://www.nigdywiecej.org/> (accessed 30 April 2012).

Examples of racism can be found also in media not considered right-wing. In 2012, KRRiT imposed a fine of PLN 50,000 (US\$ 16,700) on Radio Eska Rock for airing racist jokes about Alvin Gajadhur, the spokesman for the Major Roads Transport Inspection, made by presenters Kuba Wojewódzki and Michał Figurski, both well-known, liberal journalists. Mr Gajadhur is of Polish-Indian origin.¹¹⁹

There are also laws which have a “gag effect” on public discourse about certain topics.

Article 133 of the penal code provides up to three years’ imprisonment for persons who “publicly insult the Polish Nation or the state” though the statute has not been used in recent years. In 2007, a new form of “insulting the Polish Nation” was added as Article 133a: “Anyone publicly insulting the Polish Nation for participating in, organizing of, or responsibility for Nazi or Communist crimes may be punished up to three years in jail.” In 2008, the Krakow prosecutor’s office received 12 complaints against the book *Fear* by Jan Gross, accusing some Poles of persecuting Jews during and after WWII. The prosecutor, however, did not press charges.¹²⁰ The dangers to free speech presented by this penal code article prompted the Civil Rights Ombudsman (*Rzecznik Praw Obywatelskich*) to challenge it in the Constitutional Court. In 2008 the Constitutional Court found Article 132a invalid because the amendment was processed in Parliament in a “hasty manner and without deeper reflection.”

Libel suits against media professionals are common. Article 212 of the penal code states: “Anyone who inputs to another person or group of persons, an institution, a legal person or an organization without legal personality, such behavior or characteristics as may lower this person, group or entity in public opinion or undermine public confidence in their capacity necessary for a given position, occupation or type of activity, shall be liable to a fine, a restriction of liberty or imprisonment not exceeding one year.” The second paragraph of Article 212 states: “If the perpetrator commits the act through the mass media, he shall be liable to a fine, and a restriction of liberty or imprisonment not exceeding two years.”

Press freedom watchdog organizations have warned about the dangers of using of the penal code against the media. The Helsinki Foundation of Human Rights (hereafter HFHR) and Press Publishers Chamber have gathered evidence that the state has been overusing its powers against freedom of expression. From 1997, when the current version of the penal code was passed, 1,069 persons were sentenced using Article 212, and of those 241 were under restriction of liberty or imprisoned. According to the Polish Journalists’ Association, the courts sentenced 23 journalists in 2005–2006.¹²¹ In May 2008 the Constitutional Court upheld the

119 “Wojewódzki i Figurski ukarani za rasizm, Eska Rock musi zapłacić” (Wojewodzki and Figurski punished for racism, Eska Rock has to pay), *Wirtualne Media*, at <http://www.wirtualnemedia.pl/arttykul/wojewodzki-i-figurski-ukarani-za-rasizm-eska-rock-musi-zaplacic> (accessed 24 May 2012).

120 “Gross przedstawił swoją wizję i ma do tego prawo, tak jak każdy autor” (Gross Presented His Version and Has a Right to That, as All Other Authors Do), *Polskie Radio*, at <http://www.polskieradio.pl/iar/wiadomosci/arttykul37242.html> (accessed 21 February 2011).

121 Dawid Sześciło, *Paragraf 212. Karanie dziennikarzy za zniesławienie w polskiej praktyce (Paragraph 212. The Polish practice of sentencing journalists for defamation)*, Helsińska Fundacja Praw Człowieka, Warsaw 2009, at <http://www.hfhrpol.waw.pl/obserwatorium/images/konferencje/212/Paragraf%20212%20Wersja%20Elektr.pdf> (accessed 26 February 2011).

constitutionality of Article 212.¹²² According to Justice Ministry data in 2009 there were 64 convictions in Poland based on this article.

Polish politicians are being protected from public criticism in a special way. This has led to many investigations and the harassment of outspoken citizens. On 18 May 2011 at dawn secret police agents entered the apartment of Robert Frycz, a student from Tomaszów Mazowiecki. A couple of months earlier he had set up the website AntyKomor.pl ridiculing President Bronisław Komorowski. The police confiscated Frycz's computers and hard discs. A few days later the author closed the site.

The police action was based on Article 135 para.2 of the penal code, threatening up to three years of imprisonment to anyone who “publicly insults the president.” The President's Palace, though, and Komorowski himself, seemed to be embarrassed. Many politicians were against using this law. The case renewed public debate about scrapping Art. 135, para. 2 of the penal code. “In the opinion of the HFHR, art.135 para.2 of penal code is inconsistent with the standards worked out by the decisions of the European Tribunal of Human Rights. The Polish Constitutional Tribunal will hopefully soon decide whether art. 135 para.2 of penal code infringes the Constitution and art.10 of European Convention of Human Rights,” wrote HFHR in an open letter, released on 25 May 2011.¹²³

4.3.3 Space for Public Expression

Digital media have clearly enlarged significantly the space for expression for minority groups, in the first place on the internet, but thanks to that their voices also cross over from the internet to traditional media. Minority issues are regularly debated on TOK FM radio, TVN24 Television, in the *Gazeta Wyborcza* newspaper and others. When in 2011 an MP from the ruling Civic Platform (*Platforma Obywatelska*) party, asked about his opinion on the civil partnership law, made a joke on camera about lesbians that was widely seen as offensive, he was fined and then removed from the party election list.¹²⁴ Only a few years earlier, this kind of speech would have likely passed without any reaction from the media and politicians.

The internet helps to protect those who are discriminated against. In a leaflet produced by HFHR for minorities who feel oppressed or were victims of oppression, there were eight other organizations listed as ready to help them, besides HFHR.¹²⁵

122 Constitutional Court, *Sentence of 12 May 2008 SK 43/05 in Marian Maciejewski's case*, at <http://www.trybunal.gov.pl/OTK/hjo2.htm> (accessed 26 February 2011).

123 “List otwarty w sprawie strony AntyKomor.pl” (Open letter regarding the website AntyKomory.pl), http://www.hfhrpol.waw.pl/pliki/list_otwarty_antykomor.pdf (accessed 31 May 2011).

124 “Poseł Węgrzyn przeprosza za lesbijki” (MP Węgrzyn apologizes for the lesbians), at <http://www.tvn24.pl/0,1692250,0,1,posel-wegrzyn-przeprosza-za-lesbijki,wiadomosc.html> (accessed 26 February 2011). In the 2011 elections, Mr Węgrzyn lost as independent candidate for the Senate.

125 *Report a hate crime* leaflet, Helsinki Foundation for Human Rights, available at <http://www.hfhrpol.waw.pl/pliki/dlangielska.pdf> (accessed 26 February 2011).

The development of gay and lesbian websites, helped to organize sexual minority life and events. On 17 July 2010 the Europride gay parade took place in Warsaw with about 8,000 participants. There was no support from the city and no presence of local politicians, but a few left-wing Democratic Left Alliance (*Sojusz Lewicy Demokratycznej*, SLD) deputies participated, as well as many politicians from European Union countries.¹²⁶ The parade was supported by gay bars, discos and other businesses and covered on national media. Similar parades are organized in Warsaw and other cities (Poznań, Cracow) every year.

The Jewish minority is well represented on the web and in real life. “The [Ronald S.] Lauder Foundation has established a number of clubs and events for Jewish youth, as well as a primary school in Warsaw. The Social and Cultural Society of Jews in Poland helps with the renewal of Jewish life and culture; it has branches in all major cities of Poland and publishes the *Folks-Sztyme*, a Yiddish and Polish weekly. The community maintains Jewish cemeteries, synagogues and charities. Kosher restaurants can be found in Warsaw and Cracow, and the American Joint Distribution Committee maintains kosher cafeterias in the largest Jewish centers of Poland.”¹²⁷

4.4 Political Diversity

4.4.1 Elections and Political Coverage

The new election law (which was passed in 2011 and introduced two-day elections instead of the traditional one day) raised concerns over disclosing the results of the vote on the internet before voting ends. Disclosure of election results is prohibited by law, but internet servers outside Poland can do it without penalty. Also in earlier elections information about results was released sporadically on internet sites, triggering debate about the very point of the “day of media silence” (news blackout) imposed by law 24 hours before elections start, when this law is impossible to enforce on the web. It is common knowledge that exit poll results can be found on different internet sites, to which users are led by recipes, prices of vegetables or under other creative covers, reminding the older generations of tactics in the battles with communist censorship.¹²⁸

4.4.2 Digital Political Communications

The political parties do harness the internet in their communication with voters and for PR purposes. All major parties have internet sites and are also present on social networks, such as Facebook and Twitter. The most popular politician’s blog is by the libertarian eccentric, former MP Janusz Korwin-Mikke, who makes new entries almost every day. He was the first Polish politician who discovered the power of the internet, and he is the absolute leader among politicians in the number of friends on Facebook.¹²⁹

126 YouTube report from Europride 2010 is available at <http://www.youtube.com/watch?v=Qwo8vu3rugM> (accessed 26 February 2011).

127 “*Present day Poland*” at the Jewish Virtual Library, available at <http://www.jewishvirtuallibrary.org/jsourc/vjw/Poland.html#Present%20Day%20Poland> (accessed 26 February 2011).

128 “Jak internet omijał ciszę wyborczą” (How the election news ban was bypassed on the internet), *Rzeczpospolita*, 9 October 2011, at <http://www.rp.pl/artykul/10,730352-Zarty-z-ciszy-wyborczej-w-internecie.html> (accessed 23 October 2011).

129 As of 11 June 2012, Janusz Korwin-Mikke had 83,839 friends on Facebook. See <http://www.facebook.com/home.php?#!/janusz.korwin.mikke> (accessed 11 June 2012).

The other popular politicians' blogs are by Janusz Palikot, formerly a PO member, now the leader of the "Ruch Palikota" (Palikot's Movement) party; Ryszard Czarnecki, MEP from PiS; and Joanna Senyszyn, MEP from SLD. The private, non-partisan site Blogi-politykow.com/ offers the blogs of "leading politicians" by their party affiliation and also a few video blogs by them (Janusz Palikot, Pawel Poncyliusz from PiS and Marek Siwiec, MEP from SLD).

Rafał Trzaskowski, PO candidate in European Parliament elections in 2009, probably used the internet in the most innovative ways, campaigning with short videos of celebrities supporting him, popular on YouTube. He won the seat and his internet site proves that he still skillfully uses new media in his political career.¹³⁰

However, on the list of the 100 most popular blogs in Poland, the first political and only blog by a politician—Janusz Korwin-Mikke—was in 27th place. It seems that people do not like the presence of politicians and politics too much on the internet. There is evidence of that. The unknown initiator of the group "A day without Smolensk" got 100,000 supporters in just a few weeks, a record number on Facebook in Poland. The initiator cancelled it, reportedly afraid of possible political ties. The public discourse in Poland has been marred by endless accusations and counter accusations about the roots of the Smolensk tragedy. The films done after the crash, presented on YouTube, were part of the heated discussion. One of them has been watched over 1.5 million times since 17 April 2010.¹³¹ (See section 3.3.2.)

4.5 Assessments

Digitization, in the sense of using the internet as a tool, has revolutionized the work of journalists. Web resources made their work easier, faster and more accurate, provided they do not trust everything they find online. Otherwise they end up in the bushes like drivers who blindly follow the GPS system. The new phenomenon of the past five years in journalists' work has been the growing use of Facebook, Twitter and other social networks for getting news or tips about them. In order to have your story noticed, it must be written in a new way, using the most popular words indexed by Google search engines.

Digitization broadened opportunities for "citizen journalists," meaning anybody who can use internet resources creatively. UGC plays an increasing role in the 24-hour news of television stations, delivering news and images impossible to obtain otherwise.

Web publications are allowing media consumers to quickly verify and correct journalists' stories. Additionally readers, listeners and viewers do not need traditional media to carry their information and opinions; the power of the web allows them to publish online. On social networks, such as Facebook and Nasza Klasa,

¹³⁰ See <http://www.trzaskowski.pl/> (accessed 26 February 2011).

¹³¹ "Smoleńsk: strzały, widoczne sylwetki analiza" (Smolensk: shots and visible people, analysis), YouTube, at <http://www.youtube.com/watch?v=Sppv6S9aHI4> (accessed 10 September 2011).

exciting news has a snowball effect, and traditional media have no choice but to at least notice, criticize or give credit to it.

Digitization opened endless publishing opportunities for all political and minority voices who feel underrepresented in mainstream, traditional media. In the case of Poland in 2012, they are the more right-wing, nationalistic media and journalists. The title of the discussion that took place in *Rzeczpospolita* on 31 January 2012 reflects it well: “What kind of pluralism in media? Are the most popular television stations cutting Poles off from important information? Will the internet replace traditional newspapers and broadcasters?”

The digital media enlarged significantly the public space available to minority groups, first of all on the internet, but thanks to that also in the traditional media. The internet helps to protect those who are discriminated against: development of gay and lesbian websites helped them to organize their lives and events and come out of the closet. It had a real impact on public opinion; in May 2011 more than half of Poles supported the “partnership bill” giving same sex unions the official stamp of approval. In 2002 only 15 percent supported such a law; a year later—34 percent.¹³² The Jewish minority is also well represented on the web and in real life, as are other minorities—whether by nationality, disability or anything else.

In election coverage web presence plays a fast-growing role. All public office candidates place emphasis on a good website and coverage on the internet; some of them even owe their electoral victories to good web campaigns. The new phenomenon is usage of web posts by politicians. The entries on social networks, cooking pages, tourist pages and thousands of others are being done by students, political supporters or simply hired companies operating on the web, specializing in “whispered marketing.” It may go both ways: support for “our boy” and “black propaganda” for his rival.¹³³

Digital media are becoming more important in investigative journalism, broadening its scope and strengthening the impact. But the way to go seems to be a long one because up to now traditional media have rarely picked up these kinds of stories from the digital sphere.

132 “Gej przestraszył PO” (PO scared of gays), *Gazeta Wyborcza*, 31 May 2011, at <http://m.wyborcza.pl/wyborcza/1,105226,9696947> (accessed 31 May 2011).

133 Dorota Kowalska, “Na opluwaniu ludzi w Internecie można nieźle zarobić” (On the internet you can get paid handsomely for spitting on people), *Polska*, 30 May 2011, p. 3.

5. Digital Media and Technology

5.1 Broadcasting Spectrum

5.1.1 Spectrum Allocation Policy

Licenses, required under the law for transmission of any programs other than retransmission of programs previously transmitted by stations licensed in Poland or elsewhere, or the channels of public radio and television, used to be issued by KRRiT, the electronic media regulator.¹³⁴

Digital terrestrial television licensing procedures have been under discussion since 2005 when broadcasting law changes shifted the responsibility for digital licensing from KRRiT to the Office for Electronic Communications (*Urząd Komunikacji Elektronicznej*, UKE).

In the legal vacuum before the digitization law was passed in mid-2011, the spectrum on multiplexes (MUXes) had been awarded in a non-transparent way, and therefore their distribution was contested by both private and public broadcasters. In September 2009, the UKE divided three MUXes in such a way that the first one was reserved for three channels of public TVP plus four private broadcasters: Polsat, TVN, TV4 and television Puls. They could not agree on the MUX1 operator, so in 2010 they asked UKE for a change. (See section 2.1.3)

After lengthy and closed negotiations, the four private terrestrial channels were transferred to MUX2, and the public ones stayed on MUX1. Each of four existing terrestrial broadcasters was arbitrarily (without any formal procedure) granted an additional channel on MUX2, where Polsat will have Polsat Sport News, TVN its movie channel TVN7, TV4 the new TV6 with youth programming, and television Puls a children's channel.

MUX3 is reserved for TVP. It is the only multiplex technically prepared for regional broadcasting, which was the additional argument for a change. After the analog switch-off in the end of July 2013, TVP will move its three channels from MUX1 to MUX3, leaving behind more space for private competitors. Three new free slots on MUX1 are to be filled by a tender, which should produce results no later than 27 April 2014.

¹³⁴ Broadcasting Act, Art. 36, <http://www.krrit.gov.pl/angielska/index.html> (accessed 12 March 2012).

“The final decisions about the way MUX1 was set up were made after consultations with the Ministry of Infrastructure, the Office for Electronic Communication and market players. It is a good practice to be followed in the future,” Jan Dworak, the head of KRRiT, said about the complicated process of closed negotiations.¹³⁵ However, in March 2011 KRRiT noted that Art.4 of EC Directive 2002/77/WE from 16 September 2002 had to be applied. This article prohibits “allowing exclusive or special rights in the awarding of a spectrum. It says that spectrum allocation must be based on transparent, non-discriminating and proportional criteria.”¹³⁶

As a result of this spectrum-allocation process, the existing terrestrial private broadcasters (Polsat, TVN, TV4 and TV Puls) were advantaged in dividing the MUXes.

5.1.2 Transparency

On 23 December 2010 KRRiT announced the tender for the four free slots on MUX-1. According to industry media, establishing a digital television channel requires about a PLN 20 million (US\$ 6.66 million) investment in the first year of operation.¹³⁷ As of 15 March 2011, KRRiT announced that there were 17 contestants in the contest for four slots on MUX-1.¹³⁸ All of them had satellite licenses for broadcasting, which was a condition for entering the competition. This may be treated as a restriction; however, taking into account the number of players already present in the market (about 100 Polish language channels), it is not an important one.¹³⁹

There were no big international broadcasting companies behind any of the contestants, according to media observers. In May 2011 the results of the contest were announced by KRRiT. The winners were: ATM Grupa, Eska Television, Kino Polska and Stavka. Two months later, Kino Polska gave up its slot unexpectedly, and Polo television, owned by Lemon Records, was chosen by KRRiT to replace it.¹⁴⁰ According to the owners, the new channels on MUX1 will have the following characteristics:

- ATM Rozrywka television will be an entertainment channel, produced by ATM Grupa, the biggest Polish independent television producer (television Polsat has 17 percent of its shares), having about 14 percent of the market.¹⁴¹

135 KRRiT *ogłasza konkurs na zagospodarowanie multipleksu 1 (KRRiT announces contest for MUX1 allocations)*, at <http://www.krrit.gov.pl/bip/Link-Click.aspx?fileticket=200vRhdd5Dc%3d&tabid=246> (accessed 5 March 2011).

136 KRRiT, *Strategia Regulacyjna na lata 2011-2013 (KRRiT: Regulation Strategy for 2011-2013)*, 2011, p. 12.

137 Magdalena Lemańska, “Opóźniona telewizja cyfrowa” (Late digital television), *Rzeczpospolita*, 5-6 March 2011, p. B5.

138 Anita Dąbek, “17 kanałów ubiega się o 4 miejsca w MUX1” (17 channels vying for 4 slots on MUX1), *SatKurier*, at <http://satkurier.pl/news/64336/17-kanalow-ubiega-sie-o-4-miejsca-w-mux-1.html> (accessed 20 March 2011).

139 These contestants were: 4fun.tv (4fun Media), Next HD (Astro), ATM Rozrywka television (ATM Group), CTV (Cable Television Networks), Eska television (ZPR SA), TV Trwam (Lux Veritatis Foundation), Kino Polska Nostalgia (Kino Polska television, owned by SPI International), Polo television (Lemon Records), Tele 5 (Mediasat), RMF television (Multimedia), Radio na Wizji (Polish Radio), U-television (Stavka), Superstacja (Astro), Orange Sport Info (Telekomunikacja Polska), iTV (Telestar), Machina television (TV Point Group) and TVN Meteo (TVN Group).

140 “KRRiT: Polo television zamiast Kino Polska w naziemnej telewizji cyfrowej” (KRRiT: Polo television instead of Kino Polska in terrestrial digital television), *Gazeta Wyborcza*, 6 July 2011, at http://wyborcza.biz/biznes/1,100969,9904657,KRRiT__Polo_television_zamiast_Kino_Polska_w_naziemnej_telewizji.html (accessed 14 October 2011).

141 See http://pl.wikipedia.org/wiki/ATM_Grupa (accessed 14 October 2011), and <http://ir.atmgrupa.pl/PressOffice/EspiRelease.75818.po> (accessed 29 February 2012).

- Eska television will be a music channel, originating with the internet multimedia platform Radio Eska, which started in May 2008 and from April 2009 also broadcast on satellite and digital n platforms.¹⁴²
- U-television will have social, advice, how-to, local and show business news, but no political information. Its owner, Stavka, is a casting agency working for the biggest Polish soap operas, with ties to Besta Film, the independent film production company.¹⁴³
- Polo television will play Polish music; the title evokes the most popular and simple disco polo (Polish pop) music, popular in the 1990s; Lemon Records is financially connected to ZPR (*Zjednoczone Przedsiębiorstwa Rozrywkowe*, United Entertainment Companies), a company established in 1973, the owner of Radio Group Time (Radio Eska, Eska Rock, VOX FM), Murator publishing group, tabloid *Super Express* and about 120 casinos.¹⁴⁴

TV Trwam, a commercial religious television broadcaster run by Father Tadeusz Rydzyk¹⁴⁵ is demanding a review of these KRRiT decisions, arguing that the Roman Catholic broadcaster was treated unfairly compared with other participants of the contest. According to KRRiT head Jan Dworak, the Lux Veritatis Foundation, which owns TV Trwam and filled the papers, could not prove its financial resources and stability to support the program. In February 2012, after KRRiT's refusal to reverse its decision, Lux Veritatis Foundation announced it would challenge it in court, demanding a suspension of the operation of MUX1 until the court issues a verdict. Catholic bishops, some media editors, politicians and the Helsinki Foundation for Human Rights (HFHR) criticized the KRRiT decision.¹⁴⁶ According to former KRRiT member (2007-2010) Barbara Babula:

All slots on all multiplexes have been filled by broadcasters originating from the electronic media system established in the 1990s. The digital television landscape will be an entertainment-commercial mix of the same ideological profile. Digital media regulators missed the opportunity to prevent exclusion of conservative, religion connected broadcaster from the media landscape.¹⁴⁷

On 25 May 2012, the Warsaw Administrative Court, deliberating for six hours with a heavy presence of TV Trwam supporters, upheld the KRRiT decision on denying TV Trwam the MUX channel. Father Rydzyk announced he would appeal to the Supreme Administrative Court (Najwyższy Sąd Administracyjny, NSA)

142 See http://pl.wikipedia.org/wiki/Eska_television (accessed 14 October 2011).

143 See <http://pl.wikipedia.org/wiki/Stavka> (accessed 14 October 2011).

144 "Ministerstwo Skarbu Państwa rozpoczęło negocjacje z ZPR w sprawie kupna PW Rzeczpospolita" (Treasury started to negotiate with ZPR selling Rzeczpospolita), at http://biznes.gazetaprawna.pl/artykuly/312345,ministerstwo_skarbu_panstwa_rozpoczelo_negocjacje_z_zpr_ws_kupna_pw_rzeczpospolita.html (accessed 14 October 2011).

145 Tadeusz Rydzyk, Catholic priest and monk (Redemptorist Order), from the city of Toruń, established the religious *Radio Maryja* in 1991, then *Telewizja Trwam* in 2003. Nationalistic, politically far right, his media holdings also include daily *Nasz Dziennik*, which is influential on the political scene.

146 "Zamieszanie wokół television Trwam to presja" (The fuss about television Trwam constitutes pressure), at <http://www.wirtualnemedial.pl/artykul/jan-dworak-zamieszanie-wokol-tv-trwam-to-presja> (accessed 22 February 2012).

147 See <http://lubczasopismo.salon24.pl/RadioMaryja/post/335674,tv-trwam-wciaz-nie-otrzymala-miejsca-na-cyfrowym-multiplesie> (accessed 14 October 2011).

and then, if TV Trwam lost again, to the European Human Rights Tribunal in Strasbourg. The hearing on the TV Trwam case took place on 5 June 2012 at European Parliament in Brussels. Pro-TV Trwam demonstrators with muzzles on their faces accused KRRiT of denying free speech in Poland.¹⁴⁸

MUX1 started in December 2011 and covered all of Poland by June 2012, in time for the UEFA European Football Championship 2012, to be played in Poland and Ukraine.¹⁴⁹ MUX2 went up on 30 September 2010 and reached its full coverage in July 2011. MUX3 started operation on 27 October 2010 and will be filled by 27 April 2014, reaching 95 percent of Poland's inhabitants by then.

On 4 March 2011 the government finally approved the digital switchover law, which was then approved by the Parliament and signed by the President in summer 2011. The analog switch-off date is set for 31 July 2013, but new decisions of the UKE, as of October 2011, mean that the analog television signal will be switched off as early as November 2012 in the Lubuskie province, then in the cities of Poznań and Gdańsk, and in March 2013 in Warsaw.¹⁵⁰ Before the general analog switch-off, two MUXes should be available for free to about 95 percent of Poland's population. They will get about 20 channels in the SD technical standard. In April 2012, the new head of the UKE, Magdalena Gaj, suggested that this plan may be delayed because as of the low proportion of terrestrial digital-ready television sets, estimated at only 20 percent in a poll done at the beginning of 2012.¹⁵¹ The share of terrestrial television reception in Poland is below 30 percent (satellite and cable television are present in over 70 percent of households), but at the end of 2011 only 4 percent of households were using terrestrial digital television and the forecasts are also low: end of 2012—8 percent; official switch off time in mid-2013—16 percent; and 27 percent in the end of 2013. The final decision will be taken after EURO 2012 soccer competition in June 2012, which should boost the modernization of television sets in Polish households.¹⁵²

The allocation of the spectrum on MUX2, done in closed negotiations between existing commercial terrestrial broadcasters (Polsat, TVN, TV4, TV Puls) and the regulator (UKE) was not transparent, but did not spark any protests, despite the fact that one of beneficiaries, TV Puls, had significantly changed its profile (originally religious, currently strictly commercial) with KRRiT approval (see section 6.1.5).

148 "Rydzyk w Brukseli. Pod siedzibą PE demonstracja zwolenników Telewizji Trwam" (Father Rydzyk in Brussels. TV Trwam supporters demonstrate in front of European Parliament), at http://www.gazetaprawna.pl/wiadomosci/artykuly/622874,rydzyk_w_brukseli_pod_siedziba_pe_demonstruja_zwolennicy_telewizji_trwam.html (accessed 11 June 2012).

149 Magdalena Lemańska, "Rewolucja w telewizji już w przyszłym roku" (television revolution already next year), *Rzeczpospolita*, 19 October 2011, p. B9.

150 Magdalena Lemańska, "Rewolucja w telewizji już w przyszłym roku" (television revolution already next year), *Rzeczpospolita*, 19 October 2011, p. B9.

151 Vadim Makarenko, "Czy telewizja cyfrowa się nie opóźni?" (Will digital television be late?), *Gazeta Wyborcza*, 13 April 2012, p.24.

152 Magdalena Lemańska, "Prawie 400 nowych kanałów TV" (Almost 400 new television channels), *Rzeczpospolita* 10 April 2012, p. B7.

The contest for four slots on MUX1 was much more transparent, but ignited a wave of protests by TV Trwam supporters. According to KRRiT President Jan Dworak, TV Trwam was the only contestant among 17 taking part in this contest who did not agree to publish its financial report, delivered to KRRiT.¹⁵³

5.1.3 Competition for Spectrum

Because the first three MUXes were under construction at the time of writing of this report, no special attempts to control and manage them are known. However, the players who have already been on the Polish terrestrial television market made significant efforts to secure the space for themselves on multiplexes, and they eventually succeeded in obtaining it. Three functioning MUXes are run by Emitel; in 2005 TVN and Polsat organized POTV (Polski Operator Telewizyjny—Polish television Operator) to act as their MUX operator, but without any success.

5.2 Digital Gatekeeping

5.2.1 Technical Standards

While discussion over the digitization process was going on for several years in Poland, in 2006 MPEG-2 standard STBs were used by over 1.3 million Polish households subscribing to digital TV platforms: Cyfra+ (917,000 subscribers in 2006), Polsat Cyfrowy (1 million subscribers) and TVN (80,000). Also few thousand TV recipients bought MPEG-2 STBs to receive the first digital TV signal broadcast by TVP in two countryside locations, through TP Emitel in Warsaw and Wrocław, and by INFO-TV-FM. The decision to adopt the more technically advanced MPEG-4 standard made in 2007 required all of them to buy new STBs.

Conditional Access (CA) systems do not apply yet to terrestrial digital broadcasting on MUXes because all three of them they are free-to-air. Whether the following MUXes will be encoded, requiring CA, is to be seen, because also another possibility—to use the digital dividend channels for LTE (Long Term Evolution), not for MUXes—is under consideration among UKE officials dealing with the issue.

CA system has been used, though, by all cable operators. First of all, the customers have to use the “black boxes” provided only by the cable company. Secondly, cable companies must offer channels of public television (TVP), but they are free to group other channels as they wish. Sometimes, for instance, they combine sport channels with erotic ones.

The telecommunication law (*ustawa prawo telekomunikacyjne*) requires telcom operators to show the costs of CA systems separately (Art. 133.2), which helps consumers to compare the prices they pay. KRRiT is considering applying ‘must carry’ rules for all DVB-T channels to all cable and satellite operators.¹⁵⁴

153 Jan Dworak in “Blżej” (Closer) by Jan Pospieszalski, TVP Info, 26 April 2012.

154 “Must-carry DTT channels on cable and satellite,” at http://www.dvb.org/about_dvb/dvb_worldwide/poland/ (accessed 30 April 2012).

The question of the method of distribution of the three MUXes—by satellite or by terrestrial network—was raised in public in April 2008. “When considering various ways to distribute content, satellite technology has all the advantages,” wrote Dr Tomasz Teluk of the Globalization Institute think tank in a 2008 report, appealing for a different approach to digitization in Poland.¹⁵⁵ In his opinion, using the network of terrestrial broadcasting antennas for changing analog terrestrial into digital transmission was the wrong decision from a cost-effectiveness and coverage point of view. Dr. Teluk wrote:

Satellite transmission provides full technical coverage and an almost 100-percent reception all over Poland. Also the economic benefits of digital satellite transmission are important. Other technologies, e.g. DTT or cable television, will not ensure full coverage. Moreover, they require much larger investment. From the technological point of view, they have fewer possibilities, e.g. a significantly lower number of television channels than can be broadcast.¹⁵⁶ The evaluation of Poland’s digitization strategy, which is limited to terrestrial television only, is negative. This is due to the enormous costs that will have to be incurred for this type of digitization. The Globalization Institute estimates that that the costs of digital broadcasting in this form may even be 10 times higher than the costs of analog broadcasting. In the case of TVP it may amount to PLN 2 billion (US\$ 660 million)¹⁵⁷

The reason why digitization of the terrestrial network of broadcasting antennas was chosen over using satellite transmission was briefly mentioned in the 2009 Digitization Strategy document: “The role played by the terrestrial network of antennas in the national security system is of utmost importance. In the case of emergency it allows for reaching all citizens, thanks to a wide network of broadcasting antennas.”¹⁵⁸

There was no serious public discussion of the Globalization Institute assertions; it seems that experts considered the terrestrial network of antennas a natural solution and the proposals of the Institute not worth dealing with.¹⁵⁹

5.2.2 Gatekeepers

In 2011, out of 2.2 million television sets sold in Poland, 0.5 million had internet access. Television set producers are holding the key to the “digital gate”; there are several standards of hybrid TV present on the market, but according to the experts open standard HbbTV26 will finally prevail. For EURO 2012 the

155 Tomasz Teluk, *Digital Poland. Report of the Globalization Institute Foundation*, at http://globalizacja.org/download/DP_english.pdf (accessed 6 March 2011).

156 Tomasz Teluk, *Digital Poland. Report of the Globalization Institute Foundation*, p.12, at http://globalizacja.org/download/DP_english.pdf (accessed 6 March 2011).

157 Tomasz Teluk, *Digital Poland. Report of the Globalization Institute Foundation*, p.27, at http://globalizacja.org/download/DP_english.pdf (accessed 6 March 2011).

158 *Projekt Strategii Cyfryzacji Nadawania Sygnału Telewizyjnego (Project of Television Signal Digitization Strategy)*, Warsaw, September 2009, p. 9, at <http://www.mi.gov.pl/files/0/1791408/PROJEKTSTRATEGIICYFRYZACJINADAWANIASYGNAUTELEWIZYJNEGO.pdf> (accessed 4 April 2011).

159 Pawel Ciacek, head of Projekt Polska, which runs Centrum Cyfrowe (Digital Center), wrote to the reporter: “People from the Digital Center do not know Mr. Teluk and his report.” Email, 22 October 2011.

public broadcaster made the first transmissions in this standard on TVP1 HD (MUX-1) and TVP2 HD (MUX-3).¹⁶⁰

The digitization law (*Ustawa o wdrożeniu naziemnej telewizji cyfrowej*, Terrestrial Digital Television Implementation Law) passed on 30 June 2011 includes a must-carry rule applied to digital broadcasting, which means that three of the MUXes must carry 21 channels, and for five MUXes the number goes up to 35 channels, replacing the must-carry rule of the four to seven obligatory channels for analog television cable operators.

Therefore, the existing first three MUXes do not play a gatekeeping role because they are free-to-air by law. Whether the following MUXes will be encoded, requiring conditional access (CA) to use them, is to be seen, because also another option—using the digital dividend channels for LTE (Long-Term Evolution), not for MUXes—is under consideration among UKE officials dealing with the issue.¹⁶¹

The law considering EPG is not precise. Art. 43 of the broadcasting law defines the must-carry obligations for cable operators, but they are considered vague and leaving too much room for avoidance. It refers to a “sequence of programs” (first those of public television followed by nationwide radio and television programs), which does not necessarily mean broadcasting them; also, there are also no rules for payment and no must-offer rule, without which broadcasters do not want to offer certain popular channels to other platforms (Polsat does not want to offer *Polsat Sport to n* and *Cyfra+*, protecting its own *Cyfrowy Polsat* platform).

On the digital “n” platform, owned by ITI (TVN Group), the first six channels are assigned to their own stations: TVN HD, TVN7 HD, TVN Style HD, TVN Turbo HD, TTV and TVN24; then two channels to the rival Polsat television: Polsat HD and TV4. The first public television channel, TVP HD is at number nine. On the *Cyfrowy Polsat* platform the first two channels are allotted to television Polsat and TV4; followed by TVP1 and TVP2.¹⁶²

5.2.3 Transmission Networks

There are two known conflicts in which broadcasters and transmissions network operators have been involved so far. The first occurred in 2005 when the public broadcaster TVP was exerting pressure on cable operators to include TVP Kultura into their basic (lowest-cost) package. TVP lost the case because the broadcasting law must-carry rule does not clearly say which public television channels had to be carried by cable operators; therefore, the interpretation that it applies only to those distributed terrestrially prevailed.

160 “TVP uruchomi telewizję hybrydową” (TVP will start hybrid TV), *Wirtualne Media*, at <http://www.wirtualnemedi.pl/artykul/tvp-uruchomi-telewizje-hybrydowa-laczaca-tradycyjna-telewizje-z-internetem> (accessed 26 May 2012).

161 Interview with Ms Krystyna Roslan-Kuhn, KRRiT digital specialist, Warsaw, 17 May 2012.

162 “Platforma n: TVN na pierwszym miejscu, a jedynka na 10” (n platform: TVN first, TVP1 on tenth position), at <http://www.wirtualnemedi.pl/artykul/platforma-n-tvn-na-pierwszym-miejscu-a-jedynka-na-10> (accessed 7 March 2012).

The second conflict deals with the refusal of Polsat to allow competitors to carry some of their channels. The digital transmission on MUXes will solve this; must-carry and must-offer rules will be applied to all channels that are available on all MUXes.

5.3 Telecommunications

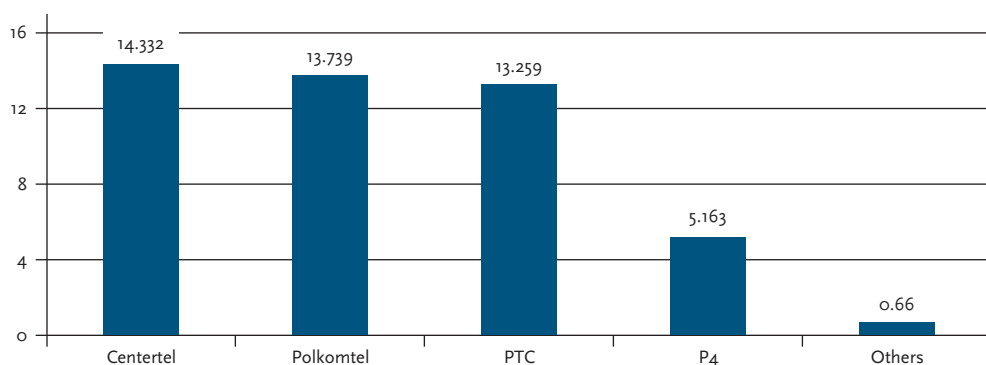
5.3.1 Telecoms and News

In the fourth quarter of 2010, the most popular mobile operator in the postpaid segment was Plus GSM ran by Polkomtel, with 7.482 million active users (31.9 percent of total number of postpaid users), followed by Centertel's Orange with 6.957 million users (29.6 percent) and PTC Era with 6.796 million users (29 percent). The fourth biggest player, Play, had as many as 2.238 million users (9.5 percent).

It is worth noting that Play is a relatively new mobile operator, having entered the market only in 2007. In this context, Play has been the most dynamically developing mobile network. From the very beginning of its commercial expansion, Play has been awarded a special regulatory discount by UKE aimed at enhancing competition in the then oligopoly on the mobile market. Namely, the Mobile Termination Rate (MTR) for Play is significantly higher than that for Polkomtel, PTK Centertel and PTC. The MTR of Operator Y indicates the rate paid by operator X to operator Y, if a client of operator X calls the client of Operator Y. The fact that Play's MTR is higher than that of the biggest operators means that these operators have to pay asymmetrically more to Play, than Play does to them.¹⁶³

Figure 8.

Clients (total prepaid and postpaid) of the biggest mobile network operators in Poland (in millions), fourth quarter of 2010



Source: Pełny obraz polskiego rynku kart SIM po 4Q2010, Telepolis, <http://www.telepolis.pl/news.php?id=20828>, accessed 1 November 2011

¹⁶³ See <http://nt.interia.pl/telekomunikacja/gsm/news/uke-pomaga-w-sprzedazy-play>, 83 (accessed 2 June 2011).

On the Polish mobile telephone market, only the two largest operators, Orange and Plus GSM, distribute media content by streamlined mobile television. The first operator to launch the mobile television service was Orange, a member of Telekomunikacja Polska Group. Mobile television as a service was deployed in 2005. Video content can be viewed through a special internet address. Additionally to streamlined mobile television, Orange is the only mobile operator that launched two television channels: Orange Sport and Orange Sport Info, both available on platform Cyfra+ and within the digital platform of Telekomunikacja Polska, offered in the combined service of ADSL and television (TVoIP or DTH).

Plus GSM introduced some information services in cooperation with television Polsat.¹⁶⁴ Information on current issues, sports, weather and programs disseminated by television Polsat can be accessed through a cell phone via a dedicated internet site or by subscribing to a Short Message Service (SMS) or a Multimedia Messaging Service (MMS). Choosing the latter, the user receives frequent text or MMS messages with news on the chosen subject. When accessing videos on the dedicated website, the viewer pays only a fixed amount for the accessed content and not for the transmission of data. The video offer has been developing since its deployment in 2009.

Distribution of media content by companies in the fixed telephone market has been developing mainly in the form of bundled services. TP launched its bundled offer of Asymmetric Digital Subscriber Line (ADSL) and Internet protocol Television (IPTV) under the name of Videostrada in 2006, which was later changed to Neostrada TP z Telewizją (Neostrada TP with Television). In 2008, another bundled offer of ADSL and satellite television was implemented. In both cases, the partner providing television reception was the digital platform provider Cyfra+. Subsequently, the cooperation between the two companies had been limited to providing IPTV when TP deployed its own satellite platform.

In the fall of 2010, ITI group and TP signed a 10-year framework agreement that started the cooperation in service provision. According to the agreement, TP is responsible for providing its services to customers of ITI's 'n' platform, including broadband access. The 'n' platform, in return, will provide content for TP SA paid television service. Moreover, the 'n' platform will be available at TP SA outlets. The agreement ended the cooperation of TP SA with Cyfra+.

Table 24.

Clients of IPTV and Direct-to-Home (DTH) services offered by TP ('000), 2009–2010

	2009		2010		
	Q4	Q1	Q2	Q3	Q4
IPTV	109	111	113	114	115
DTH	263	306	340	383	428
Total	372	417	453	497	544

Source: Wirtualne Media, www.wirtualnemedia.pl/arttykul/grupa-tp-ma-544-tys-klientow-telewizji (accessed 2 April 2012)

164 "Sieć Plus GSM udostępniła serwisy telewizji Polsat" (GSM network offers Polsat services), at <http://portalmedialny.pl/art/13576/siec-plus-gsm-udostepnia-serwisy-tv-polsat.html> (accessed 4 April 2011).

Netia, the second-biggest operator on the market and the biggest alternative operator as of the end 2010, had offered its clients cable television and Video-on-Demand (VoD). Earlier in 2009, Netia and TV *n* television announced an alliance aimed at providing television services in cooperation with TV *n*.¹⁶⁵ However, the plans did not materialize.

In 2010 Netia announced that it would include television services in its offer with the help of its partner, Cyfra+. As of February 2012, the offer has not been deployed. However, in the end of 2010, Netia launched an IPTV offer as a part of the deployment of Very High-Speed Digital Subscriber Line 2 (VDSL2) technology. This offer's territorial reach is limited to a few larger municipalities. Soon afterwards, Netia announced the further development of the IPTV offer.¹⁶⁶ In the fall of 2011, it introduced a new service, Personal television (*Telewizja osobista*). The service is based on the Netia Player decoder that enables customers to receive and view terrestrial digital television signal. Moreover, the decoder allows for viewing content from UGC sites (YouTube, Facebook, Gazeta.pl) using VoD services.¹⁶⁷

It is difficult to assess what influence IPTV has and will have on media content availability. The share of television viewers accessing content via IPTV in recent years remained small; it fluctuated around one percent (see section 1.1.2). However, its growth has been significant over the 2010-2011 years and is expected to increase dynamically in the next years.

The dynamically developing offer of programs provided on streamlined mobile television by Plus GSM and Orange indicates its popularity and provides the incentive for mobile operators to expand. In this context, the main obstacle to a more rapid development of alternative mobile television systems seems to be caused by the providers' unwillingness to allow for competition.¹⁶⁸

5.3.2 Pressure of Telecoms on News Providers

The story of a more than two years-long battle for the operation of independent mobile operator Info TV FM effectively illustrates the pressure that has been exerted on news providers by telecoms.

In 2009, UKE announced a tender for reserving the frequencies required for providing audiovisual media services in DVB-H technology. On 6 March 2009 the tender was won by Info TV FM, the independent telecommunications operator providing services of television and radio program emission for public and

165 Mariusz Koryszewski, "Telewizja N pojawi się w Netii w 2010 roku" (Television N will appear in Netia in 2010), at http://technologie.gazeta.pl/technologie/1,93066,7230476,Telewizja_N_pojawi_sie_w_Netii_w_2010_roku.html (accessed 1 November 2011).

166 Paulina Nietrzpiel, "Netia planuje dalszy rozwój IPTV" (Netia plans further development of IPTV), at <http://satkuriel.pl/news/63697/netia-planuje-dalszy-rozwoj-iptv.html> (accessed 1 November 2011).

167 Katarzyna Jasiołek, "Czym jest telewizja osobista Netii?" (What is Netia's personal television?), at <http://www.komputerswiat.pl/nawosci/wydarzenia/2011/45/czym-jest-telewizja-osobista-netii.aspx> (accessed 26 February 2012).

168 See http://www.uokik.gov.pl/aktualnosci.php?news_id=2246 (accessed 1 September 2011).

commercial broadcasters in Poland. The other competitor was a joint venture of the four biggest mobile operators: Orange, Plus GSM, Era, and Play. With the decision of UKE, Info TV FM became the wholesale provider of mobile television in Poland, delivering the service to mobile operators, digital platform operators and cable operators, which in turn offer it to the end customers.

The pilot run of mobile television by Info TV FM in the DVB-H technology was undertaken in September 2009. In March 2011, mobile television was available in 11 Polish cities (Warsaw, Łódź, Poznań, Gorzów Wielkopolski, Zielona Góra, Gdańsk, Słupsk, Elbląg, Kraków, Katowice and Lublin) and reportedly reached a potential 5.5 million customers. The content offered included the majority of TVP, TVN and Polsat programs. However, the DVB-H services have not been provided as a commercial offer and the reach described above was related to a testing signal. Consequently, on the various internet forums, many complained about the lack of signal in the cities, where supposedly it should have been available.

The reason for the absence of a commercial launch after almost two years of winning a bid was that Info TV FM was not able to sign a contract with any of the largest mobile operators. Companies with links to the cable market and digital platform providers are the ones most interested. The then-owner of the company, Albert Kuźmicz, pointed out that the lack of interest from mobile operators is not based on merit. It could be related to an investigation by UOKiK into alleged anti-competition activities of Polkomtel, PTC, PTK Centertel and P4. UOKiK announced on 24 September 2009 that it would investigate whether Polkomtel, Polska Telefonii Cyfrowa, PTK Centertel and P4 illegally coordinated their strategy toward the wholesale mobile television operator. In the fall of 2011, UOKiK finally ordered a collective fine of PLN 113 million (US\$ 37.7 million) for the setting up of an illegal agreement against Info TV FM.

Meanwhile, Info TV FM was bought by television Polsat in October 2011 for PLN 29 million (US\$ 9.67 million). It will start its audiovisual media services, allowed on this frequency by UKE, which reversed an earlier mobile television reservation after the failure of Info TV FM.

The tenure summary report by UKE head Anna Streżyńska, published in January 2012, points out that although all the requirements related to frequency reservation had been addressed, DVB-H based services had not gone live as of January 2012, still remaining at the testing stage. According to the report, mobile audiovisual services should be available to the mass market users by the start of the Euro 2012 football championships on 8 June 2012. In May 2012 the trial broadcasting started in several Polish cities and from 1 June 2012 DVB-H mobile television will be provided by two companies: Info TV FM and national telcom Orange.¹⁶⁹

169 "Ruszają testy naziemnej telewizji mobilnej" (Tests of mobile terrestrial TV to start), at <http://www.tv-mobilna.pl/?q=content/ruszaj%C4%85-testy-naziemnej-tv-mobilnej>, and "Mobilna telewizja za 15 zł" (Mobile TV for PLN 15), at <http://www.tv-mobilna.pl/?q=content/mobilna-telewizja-za-15-z%C5%82> (accessed 18 May 2012).

5.4 Assessments

While there is no evidence that the process is politicized, the spectrum on multiplexes has been awarded in a non-transparent way and therefore its distribution was contested by both private and public broadcasters. With pressure from the EU to keep to the agreed analog switch-off date, the authorities were more prone to pressure from broadcasters and allowed them to double their channels on MUX2. In fact, on the first three free-of-charge MUXs there will be only four new channels; however, several channels of both public and private television, available now only via cable or satellite, will be added to the first three MUXes.

KRRiT declare that it wants to support the media of the “third sector,” known as “citizens’ media.” Apart from social and religious broadcasters, there are only 12 cable television channels set up by foundations, associations, local government and universities. University media (both radio and television) are present only in 10 municipalities. There are also 19 “third sector” radio stations.

Up to now, the spectrum allocation has not secured enough competition. KRRiT declares that “especially thanks to the new opportunities created by the digitization process” it will strive to protect local broadcasters and “third sector” media development. It will also support media creators and deliverers to use UGC and strive to promote the internet as a new media carrier. The aim is openness and diversity of internet communication and security of its use.”¹⁷⁰

There are no active civil society organizations devoted to protecting the public interest in the digitization process; KRRiT maintains it plays that role. In the second part of 2012 KRRiT wants to present its strategy to protect local democracy through electronic media, especially through radio stations connected with the digitization process. The public discussion over digital dividend division should reach conclusions by the end of 2012, before the general analog switch-off on 31 July 2013.

170 KRRiT, *Raport otwarcia: rynek rtv w Polsce (Opening Report: Polish radio and television market)*, Warsaw 2006, p. 25.

6. Digital Business

6.1 Ownership

6.1.1 Legal Developments in Media Ownership

There were no new legal provisions concerning media ownership in the past five years. Ever since May 2004, when Poland joined the EU and amendments to the Broadcasting Act were passed, media owners from EU countries have been free to invest without any capital restrictions. The only existing ceiling, of a 49 percent stake, applies to investors from outside the EU (which, in practice, means American investors and European subsidiaries, in which they own a majority stake). Before that, foreign capital had been limited to a 33 percent stake.

Under the Broadcasting Act, a broadcast license cannot be awarded if transmission of programming by an applicant could result in achievement of a dominant position in the mass media in the given territory.¹⁷¹ A broadcast license may also be revoked on the same grounds.¹⁷² However, there is no clear definition in the Broadcasting Act of what “dominant position” means exactly. According to the Act on Competition and Consumer Protection, a dominant position is held when a business is able to prevent efficient competition on the relevant market, and it is assumed by experts that this is the case when the business’ share of the market exceeds 40 percent.¹⁷³ KRRiT says that if a company has no dominant position in every market, the Act on Competition and Consumer Protection does not apply, but in reality the company may directly or indirectly control the majority of information in a certain market.¹⁷⁴ The KRRiT evaluates whether an applicant or an existing player on the market could achieve a dominant position, taking into account the “open and pluralistic nature of broadcasting.” No license has been revoked for this reason so far.

There are currently no restrictions on media cross-ownership. It is not clear when, or even whether, anti-concentration provisions will be included in the body of law. The KRRiT’s “Polish State Strategy for Electronic

171 Broadcasting Act, art. 36(2.2), at <http://www.krrit.gov.pl/angielska/index.html> (accessed 24 May 2012).

172 Broadcasting Act, art. 38(2), at <http://www.krrit.gov.pl/angielska/index.html> (accessed 24 May 2012).

173 Act on Competition and Consumer Protection of 15 December 2000, Official Gazette, no. 86, item 804. Art. 4(9).

174 “Informacja KRRiT 2012” (KRRiT information 2012), p. 62, at <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2011/> (accessed 24 May 2012).

Media for 2005–2020” called for a restriction of 30 percent of market share in media cross-ownership as far as electronic and print media are concerned. According to media expert Karol Jakubowicz, the aim of these regulations is to ensure the presence of at least three independent television and radio stations in national and local markets. The idea was immediately criticized by media owners. The strategy called for the incorporation of this rule into the press law or public media law, but it was not done. Poland has remained a country without any legal barriers to cross-ownership in the media industry.

One example of cross-ownership of electronic and traditional media is Agora, the owner of the leading daily *Gazeta Wyborcza* and 29 local radio stations, including the news/talk format radio TOK FM, present in nine cities. Another is the German publisher Axel Springer, owning the tabloid *Fakt*, daily *Dziennik* and weekly *Newsweek Polska*, which invested in a 25.1 percent stake of Polsat television in 2006. This transaction, however, was killed by the UOKiK;¹⁷⁵ the antimonopoly watchdog stated that “notwithstanding only 25 percent share of Springer’s ownership in Polsat, some crucial decisions may not be undertaken without its consent.”¹⁷⁶ In the end of 2006 Bauer, owning over 30 magazine titles in Poland, bought RMF FM, the leading private radio station. Also ZPR, which owns radio stations and print media, got a space on MUX1 for its PoloTV channel.

All major print media have their own online editions, and some of them supply also their own internet television using their journalists as hosts and editors. In September 2010, Agora started internet television Tuba, with dance video clips and in-house created entertainment programs, aimed at dance and music fans interested in films, celebrities and technological news. Internet radio Tuba.FM offers the possibility of creating your own radio station, and playing the music you like. According to Grupa Radiowa Agora, over 20,000 listeners took advantage of this opportunity.¹⁷⁷ *Rzeczpospolita* runs internet TVrp.pl devoted to political and economic issues. Radio Zet, owner of the second most popular radio station Radio Zet, is preparing its own television channel.

KRRiT in its document from 2006 quoted a 2004 European Parliament report on the responsibility of the media and state institutions to ensure full and objective information, in which Poland was singled out as one of the six European countries with no provisions limiting media concentration: “Our experience proves that without special safeguards local radio and television stations cannot withstand market competition and have to join the networks, losing programming independence and the ability to create programs tied to local community life.”¹⁷⁸

175 “Umorzenie postępowania” (Extinguishing the procedures), at http://www.uokik.gov.pl/aktualnosci.php?news_id=293 (accessed 6 March 2012).

176 Vadim Makarenko, “UOKiK przystopował Springera” (UOKiK’s stop-over for Springer), *Gazeta Wyborcza*, 21–22 April 2007, p. 34.

177 Informacja KRRiT 2012 (KRRiT Information 2012), p. 9, at <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2011/> (accessed 24 May 2012).

178 KRRiT, *Raport otwarcia: rynek rtv w Polsce (Opening Report: Polish radio and television market)*, Warsaw 2006, pp. 38–39.

In 2011 KRRiT wrote:

Following the example of some EU countries, we should consider applying a ‘public interest test’ in the approval of mergers and acquisitions on the media market. This would allow assessing the influence of ownership change on media pluralism in a given market, regardless of whether approved thresholds of media ownership were fulfilled or not. This should also include the evaluation of mergers and acquisitions in the media advertising market. Digital conversion should be used for strengthening the pluralism in the media market, including the program offer in media, the strengthening of the specific character of local and regional television and radio stations, which should take into account the analysis of their sources of financing by the regulator.¹⁷⁹

6.1.2 New Entrants in the News Market

No larger foreign players have entered the Polish media market in the years 2006-2012. Plans of setting up new television channels by media giants, such as Axel Springer (Fakt Television), have not materialized. The reverse trend could be observed: in 2006 the Norwegian Orkla Media sold its majority share in the daily *Rzeczpospolita* to the British Mecom Group. In 2008 Rupert Murdoch’s News Corporation sold its shares of television Puls, bought two years earlier, to its sole original owner, the Franciscan Order, and a private investor.

The absence of big investors does not mean that nothing is going on in the media industry. In 2002 Agora initiated talks with private television Polsat about buying a stake in the broadcaster, but these plans failed, causing a deadlock in the cross-ownership legislation.

In the summer of 2011 ITI Group decided to sell TVN. Some market watchers have speculated that ITI may be under pressure to sell because of its heavy debt burden, which along with the sudden death in 2009 of one of the three original ITI owners, Jan Wejchert, has weakened ITI’s resolve to keep its key asset.¹⁸⁰ ITI had approached five possible buyers, with Bertelsmann-owned RTL Group, News Corp’s Fox, Vivendi and Discovery Communications mentioned as joining Time Warner in the race. Binding bids were placed in September 2011, and in mid-October 2011 there were two finalists: Time Warner and Vivendi, with the French company, the owner of Canal+ in Poland, chosen finally as the “strategic partner.”¹⁸¹ TVN Group formed Highgate Capital Investment, later to be named TVN Media, where all parts of the group being sold were transferred: TVN, TVN24, TVN7, TVN Turbo, TVN Style and TVN Meteo.¹⁸²

179 KRRiT, *Strategia regulacyjna na lata 2011–2013 (KRRiT: Regulation Strategy for 2011-2013)*, Warsaw 2011, pp. 58–59.

180 “Dealtalk: TimeWarner ahead in TVN sale,” at <http://www.reuters.com/article/2011/09/02/industry-us-tvn-idUSTRE7812ZK20110902> (accessed 10 September 2011).

181 Vadim Makarenko, “Canal+ bliżej TVN” (Canal+ closer to TVN), *Gazeta Wyborcza*, 28 October 2011, p. 29.

182 “TVN reorganizuje się przed sprzedażą” (TVN reorganizes before being sold), *Rzeczpospolita*, 19 October 2011, p. B9.

According to Vivendi's official announcement, a combination of Cyfra+ and TVN's 'n' creates a leading direct-to-home (DTH) platform with an expected combined base of 2.5 million post-paid customers by the end of 2011. Canal+ Group will own 51 percent of the share capital of the newly-created pay-television Company, with TVN Group and UPC owning 32 percent and 17 percent, respectively. In 2012 Canal+ will offer the first 3D channel on the Polish market.

This combination is expected to generate synergies in excess of PLN 250 million (US\$ 83.3 million) in year three of operations, mainly driven by revenue growth and cost optimization. By the end of 2015, the newly-created pay-television company is expected to reach more than three million customers and an EBITDA in excess of PLN 550 million (US\$183.3 million).¹⁸³

Also in 2011 the final chapter of the privatization of Polish print media took place. The *Rzeczpospolita* daily was bought from the majority owner British Mecom and minority (48.99 percent) owner, the Treasury, by businessman Grzegorz Hajdarowicz, the owner of the *Przekrój* weekly and *Sukces* monthly, and a firm believer in the digital future of the media. "The paper versions of newspapers will start to disappear from the end of 2015, making way for tablet versions," he declared in an interview with TVN24 on the occasion of concluding the transaction in October 2011.¹⁸⁴ Soon Tomasz Wróblewski, former editor-in-chief of the more liberal *Dziennik Gazeta Prawna*, replaced Pawel Lisicki as *Rzeczpospolita's* editor in-chief.¹⁸⁵ Mr Lisicki remained the editor of the weekly *Uważam Rze*, established in early 2011, which in a year achieved market success, becoming the third best-selling weekly, after *Gość Niedzielny* and *Polityka*.¹⁸⁶

In telecoms, at the end of 2010, Zygmunt Solorz-Żak, the owner of television Polsat announced that he was interested in acquiring Polkomtel and added that it was the time for the two telcos to undergo consolidation.¹⁸⁷ After six months he was ready to sell a minority package in Polsat Cyfrowy to acquire funds for the purchase of Polkomtel. There were two other potential buyers of Polkomtel, reportedly worth of PLN 18 billion (US\$6 billion): the Norwegian company Telenor and the British investment fund Apax Partners.¹⁸⁸ In mid-2011 Mr Solorz-Żak bought Polkomtel, adding it to his telecom empire consisting of the digital platform Cyfrowy Polsat, and an internet provider and mobile phone company, Aero2, with 510 base stations reaching about 60 percent of population, CenterNet and Mobyland, three ultra-speed internet connection companies (LTE technology, up to 100 Mb/sec,) and ipla.tv platform, the mobile television alternative for cable and satellite

183 See http://www.vivendi.com/vivendi/IMG/pdf/111219_GCPLus_ITI_TVN__final_v_a_-2.pdf (accessed 25 February 2012).

184 "Nowy właściciel 'Rz': Prasa drukowana będzie dla hobbystów" (New owner of Rz: print press will be only for hobbyists), *Rzeczpospolita.pl*, at <http://www.rp.pl/artykul/732794-Nowy-wlasciciel--Rz--prasa-drukowana-bedzie-dla-hobbystow.html> (accessed 23 October 2011).

185 "Wróblewski zamiast Lisickiego naczelnym Rzeczpospolitej" (Wróblewski replaced Lisicki as EIC of Rzeczpospolita), at http://wiadomosci.gazeta.pl/wiadomosci/1,114877,10548963,Wroblewski_zamiast_Lisickiego_naczelnym__Rzeczpospolitej_.html (accessed 1 November 2011).

186 "Sprzedaż tygodników opinii w 2011: liderem Gość Niedzielny" (Opinion weeklies sale in 2011: Gość Niedzielny was the leader), at www.wirtualnemedial.pl/artykul/sprzedaz-tygodnikow-opinii-w-2011-liderem-gosc-niedzielny (accessed 23 February 2011).

187 "Polsat Cyfrowy kupi Plus GSM?" (Digital Polsat buying Plus GSM?), at <http://webhosting.pl/Polsat.Cyfrowy.kupi.Plus.GSM> (accessed 1 November 2011).

188 Vadim Makarenko, "Solorz szuka gotówki na Polkomtel" (Solorz is looking for cash to buy Polkomtel), *Gazeta Wyborcza*, 18–19 June 2011, p. 34.

television operators.¹⁸⁹ The transaction by Mr Solorz-Żak was approved by the Office for the Protection of Competition and Consumers (*Urząd Ochrony Konkurencji i Konsumentów*, UOKiK). This acquisition makes Mr Solorz-Żak the owner of the biggest multimedia group in Poland.¹⁹⁰

Another recent acquisition on the Polish market was that of PTC by Deutsche Telekom. Originally, the German telecom giant owned 49 percent of PTC shares. In the end of 2010, the company bought another 48 percent. The remaining 3 percent will be acquired by taking over two holding companies: Carcom and Autoinvest. This move resulted in the rebranding of the Era mobile network: in June 2011, Era changed its name to T-Mobile. Deutsche Telekom now owns 100 percent of PTC shares.¹⁹¹

In the fixed-line network market, Telekomunikacja Polska (TP) is the largest supplier of fixed telephony and broadband services. In 2010, TP was the main operator to 67.9 percent of fixed telephone individual users (no change in comparison to 2009). The biggest alternative operators, for individual non-institutional users, were Netia (13 percent, nearly 2 p.p. rise from 2009) and Dialog (5.3 percent, more than 2 p.p. loss compared to 2009).^{192, 193} Due to the history of TP being a monopolist and now dominating operator in charge of the telecommunication infrastructure, the regulatory body UKE undertook in the past three years some steps to ensure more competition in the market, with reference to such services as Wholesale Line Rental, Local Loop Unbundling and Bit stream access. For 2005–2009, when TP was blocking the smaller competitors' access to its broadband internet network, in 2011 the European Commission fined TP €128 million. In 2012 Netia took TP to court, demanding compensation of up to PLN 700 (US\$ 233 million) for TP's anti-competition practices.¹⁹⁴

On 22 October 2009, an agreement was signed between TP and the Office of Electronic Communications aimed at improving cooperation between TP and alternative operators, ensuring stable and foreseeable conditions for the functioning of the telecommunications market in Poland and contributing to the development of this market by investment in modern telecommunications infrastructure. The company is going to lay down at least 1.2 million broadband lines in the near future.¹⁹⁵ The steps undertaken by TP in

189 Przemysław Poznański, "Zygmunt Solorz kupił Polkomtel za 18,1 mld zł." (Zygmunt Solorz bought Polkomtel for 18.PLN 1 billion)," at http://wyborcza.biz/biznes/1,100896,9880953,Zygmunt_Solorz_Zak_kupil_Polkomtel_za_18_1_mld_zl.html (accessed 18 October 2011).

190 Urszula Zielińska, "Zielone światło dla Przejścia Plusa" (Green light for Plus Takeover), *Rzeczpospolita*, 25 October 2011, p.B2.

191 "Vivendi i Deutsche Telekom zakończyły spór o PTC" (Vivendi and Telcom ended their disagreement over PTC), portal www.forbes.pl, at <http://www.forbes.pl/artykuly/sekcje/wydarzenia/vivendi-i-deutsche-telekom-zakonczyly-spor-o-ptc,9094,1> (accessed 1 November 2011).

192 "Rynek telekomunikacyjny w Polsce w 2009 roku" (Telecommunication market in Poland in 2009), PBS DGA and CBM INDICATOR, at http://www.uke.gov.pl/uke/index.jsp?news_cat_id=188&news_id=5050&layout=3&page=text&place=Lead01 (accessed 1 November 2011).

193 "Rynek telekomunikacyjny w Polsce w 2010 roku" (Telecommunication market in Poland in 2010), PBS DGA and CBM INDICATOR, at http://www.uke.gov.pl/uke/index.jsp?news_cat_id=188&news_id=6235&layout=3&page=text&place=Lead01 (accessed 1 November 2011).

194 "Komisja Europejska nałożyła 128 m E kary na TP na nadużywanie pozycji dominującej" (European Commission fined TP for misusing dominant position), *Forsal.pl*, at http://forsal.pl/artykuly/525599,komisja_europejska_nalozyla_127_5 mln_euro_kary_na_tp_sa_zaduzywanie_pozycji_dominujacej.html (accessed 24 May 2012).

195 The agreement between TP SA and the President of UKE, Office of Electronic Communications, at http://www.investors.uke.gov.pl/index.php?Itemid=25&catid=6:news&tid=110:the-agreement-between-tp-sa-and-the-president-of-uke&option=com_content&view=article (accessed 1 November 2011).

order to fulfill mentioned obligations are being regularly measured by audits required by the UKE. However, long-term effects of the agreement cannot be assessed so far.

6.1.3 Ownership Consolidation

In general, the Polish electronic media market is highly concentrated. “In traditional television broadcasting one can talk about an oligopoly of three terrestrial broadcasters (TVP, Polsat, TVN),” says KRRiT in its new basic document, released in March 2011.¹⁹⁶ “This oligopoly has been now extended to digital broadcasting and the internet. TVN signed a long-term deal with the national telco TP (see section 5); Polsat is creating its own internet infrastructure using Long-Term Evolution (LTE) technology. In the cable television market, the ten top companies have 70 percent of customers accounting for three million families.

Among radio stations, 110 out of 229 broadcasters on UKF frequencies belong to only four radio groups: RMF Group, Time Group, Eurozet Group, Agora Group; 54 belong to independent local operators, 10 to universities, six to local governments, four to associations and foundations. In recent years, radio groups have been incorporating a lot of independent stations into their networks. It pays off in terms of advertising income, but was done at a cost to diversity. Local radio stations have been unified, “formatted” for certain audiences, with the same music genres and same news, prepared in the central station of a group. Input of real local news has been marginalized.¹⁹⁷

Concentration is deepening also inside broadcasters’ groups. In March 2009 Superstacja, a Warsaw-based 24-hour information television channel, was acquired from the private owner, Ryszard Krajewski, by Zygmunt Solorz, owner of Polsat television, the number one channel on the Polish market. Superstacja has a marginal share of advertising and viewership, however there is no doubt that this acquisition decreased the plurality of television information stations in Warsaw. Polsat owns also Biznes television and has strong financial ties with TV4, which makes it the prime player on the private television market. In December 2010 Cyfrowy Polsat, owned by Mr Solorz, bought 100 percent shares of Telewizja Polsat, also owned by him.

These developments were obviously not helpful in maintaining media plurality. Nevertheless, no examples of pressure from the new owners on journalists have been publicly recorded. However, there is no proof that the situation, as described a few years earlier, has dramatically improved since 2003: Reporters were officially censored or quietly corrupted by local authorities. It is mostly those authorities themselves that are publishers of local dailies and weeklies. In such cases, it is not even necessary to use pressure tactics: it is enough to have a friendly editor. The country’s press law says that this can be anyone, so long as he is an adult and does not have any convictions for breaching the press law. Therefore, outsiders are the most desirable.

This is not just going on at the municipal or county levels. A survey conducted among journalists from more than 10 publications of one of the western European media concerns in the country showed a frightening

196 KRRiT, *Strategia regulacyjna na lata 2011-2013 (Regulation Strategy for 2011–2013)*, Warsaw, 2011, p. 11.

197 KRRiT, *Strategia regulacyjna na lata 2011-2013 (Regulation Strategy for 2011–2013)*, Warsaw, 2011, p. 11.

collapse of ethical standards in the face of pressure from politicians and businesspeople. Following are quotes from journalists' answers: "The awareness of advertisers' pressure is rising;" "I see owners abusing their rights to interfere and advertisers calling in order not to be presented negatively; otherwise, the next time they will not come to us" "The focus is only on economic results, sensationalism and good connections with authorities;" "There is too much pressure from politicians;" "Editors and politicians are too close;" "Top editors are too cozy with local politicians;" "There were cases of editors asking journalists to do certain topics;" and "Gifts for journalists are becoming common."¹⁹⁸

6.1.4 Telecoms Business and the Media

Two out of the four largest mobile telecoms, providing mobile services under the brand Plus GSM and Orange, introduced mobile television services. The first operator to launch a mobile television service was Orange in 2005. In 2009, the company started Orange Sport Info, available by satellite on platform Cyfra+ and through IPTV, offered in the combined service of ADSL and television (TVoIP or DTH). Plus GSM introduced some information services in cooperation with television Polsat. The news, sports, weather and programs disseminated by television Polsat can be accessed on a cell phone via a dedicated internet site or by subscribing to an SMS or MMS service (see section 5). These services have not been in operation long enough to assess whether independent performance of the media was influenced by them in any way, but there is no doubt that the telecoms industry in Poland remains highly concentrated.

As many other European countries, Poland is also moving toward a functional separation of the dominant operator. On 22 October 2009, the dominant operator, TP, signed a settlement with UKE. According to this agreement, TP would avoid functional separation if some requirements were met. Specifically, the conditions under which wholesale units of TP sell and provide services to alternative operators must not be worse than those offered to TP retail. Moreover, the TP group must introduce information flow constraints between retail and wholesale TP units, to provide the same quality information on wholesale offers to TP retail and to the alternative operators. Nevertheless, taking into account that the agreement was signed only in 2009, it is still too early to assess the influence of the signed settlement on plurality in the telecoms market.

The privatization model of the national telecom raises concern whether it was really a privatization at all. Thirty-five percent of GTP shares were traded in 1997 to France Telecom, the dominant operator in France.¹⁹⁹ So in practice this privatization of the dominant operator on the market meant selling the state-owned company to another state-owned company.²⁰⁰

198 Andrzej Krajewski, "Shackling the fourth estate," *Warsaw Business Journal*, 12 May 2003.

199 Krystyna Bobińska, *Transformacja w infrastrukturze—sprzeczne cele państwa (Transformation in infrastructure- state aims at odds)*, TEP conference 2003, available at http://www.tep.org.pl/app/webroot/files/0502_Zeszyt_TEP_Nr_8.pdf (accessed 2 June 2011).

200 "Bielecki: część postulatów Balcerowicza ma charakter czysto polityczny" (Bielecki: part of Balcerowicz's demands have purely political character), *Polska The Times*, 31 January 2011. See <http://biznes.onet.pl/bielecki-czesc-postulatow-balcerowicza-ma-charakte,18490,4159683,1,prasa-detail> (accessed 10 September 2011).

A good example of privatization on the other hand, was the sale of one of TP group companies, Emitel, to the private equity fund Montagu for PLN 1.7 billion (US\$566 million) on 24 March 2011. Emitel owns over 300 broadcast and telecommunication facilities, including 50 towers that are over 200 meters tall, and provides television, radio and telecommunication infrastructure services to some of Poland's largest media companies.²⁰¹ Emitel is the operator of all MUXs in Poland. It remains to be seen whether the company will abuse this dominant position.

6.1.5 Transparency of Media Ownership

The media ownership system in Poland is generally considered transparent. There are no accusations of secret deals behind official representations. Licences, required under the law for transmission of any program services other than retransmission of programs previously transmitted by stations licensed in Poland or elsewhere, or the channels of public radio and television, have been issued by KRRiT. The KRRiT webpage²⁰² provides a lot of information on the licensing process and its results. There is a list of all issued licenses for television and radio stations, divided by method of broadcasting, with the date when the license was granted, full name of broadcaster, its address and telephone number, but not a word about ownership structure.

In fact, KRRiT listings of the owners lack information about actual ownership. Out of 12 terrestrial broadcasters, six are listed at the same address in Warsaw; the real owner of all of them, Polsat, is listed under a different address, which is obviously confusing.²⁰³ In order to find who owns what, one has to turn to the National Court Register (*Krajowy Rejestr Sądowy*, KRS); however, information there is also limited to the name of the CEO and other members of the board. You have to dig much harder, requesting annual reports, to get real ownership information.²⁰⁴

The story of Television Puls confirms that sometimes things are more complicated than they seem at first glance. Television Puls was set up as a religious channel in early 2001 and soon transformed into *Telewizja Familijna* (Family Television), a joint venture of the wealthiest state-owned companies. *Telewizja Familijna* was designed as a counterweight to public TVP, at that time heavily influenced by the left. The government was right-wing and people of the same political orientation were nominated to executive positions in this state-owned businesses. Soon after *Familijna* trumpeted its kick-off, the general elections of autumn 2001 changed the government from right-wing into the left-wing. Personnel changes in state-owned companies soon followed, and the owners suddenly lost interest in *Familijna's* mission.

Soon after, the station started budget-cutting and looking for an investor. All news and current affairs programs went down the tube. In 2003 *Familijna* was finally off the air, but its license had yet not been revoked. After a few months it started again, as television Puls, with unexpected support from the competitor,

201 "TPSA sells Emitel Unit," *Reuters*, 24 March 2011, at <http://uk.reuters.com/article/2011/03/24/tpsa-emitel-idUKLDE72N2A320110324> (accessed 2 June 2011).

202 See www.krrit.gov.pl.

203 See <http://www.krrit.gov.pl/dla-nadawcow-i-operatorow/nadawcy/koncesjonowani/koncesje-telewizyjne/> (accessed 23 February 2012).

204 See <http://www.krs-online.com.pl/> (accessed 23 February 2012).

Polsat. In 2006, the channel was bought by Rupert Murdoch's News Corp., but then again unexpectedly sold after only two years of ownership.

Meanwhile, in January 2007, KRRiT changed the station's license profile from "social and religious" into "general interest."²⁰⁵ In 2010 the Franciscan Monks also sold their shares and the station became the sole property of Dariusz Dąbski, its CEO. Mr Dąbski is the former CEO of companies such as Optimus, Fujitsu, Siemens Computers, TDC Internet Polska, PKN Orlen and Onet.pl. The investment required to place television Puls on MUX2 required millions of dollars. The change from the original religious programming it got a name for, to girl stripper contests and Ukrainian "naked fun" situation comedies is as dramatic, as the changes in ownership and sources of funding.²⁰⁶ KRRiT noted that religious programs disappeared completely from television Puls in 2010 and current affairs programs were cut down from 8 percent to 1 percent of air time.²⁰⁷ In 2012 Mr Dąbski declared he would challenge the Office of Electronic Communication in court if digitization plans are late, because based on these plans "significant investments were made." TV Puls reached 35 percent of Poland's population with terrestrial analogue broadcasting, while with two channels on MUX-2 (the second one, Puls2 will start in July 2012) it achieves 52 percent reach in 2012 and will have the reach of close to 100 percent after analog switch-off.²⁰⁸ So the real story behind this television station is not really known.

6.2 Media Funding

6.2.1 Public and Private Funding

The lack of financial sustainability of the public broadcaster, TVP, is a result of the continuing decrease in license fee payments. In the years 2008–2010 the license fee payment decreased each year by an average of 15 percent year on year. This was a result of the uncertainty over the future of the license fee.²⁰⁹ This in turn has led to the progressive commercialization of TVP. In 2009, the share of advertising in the content disseminated by TVP1 was as high as 11.7 percent; the figure for TVP2 was very similar. Moreover, the share for both stations rose by circa 2 p.p. points between 2008 and 2009.

205 "KRRiT zgodziła się na zmianę television Puls z religijnej na uniwersalną" (KRRiT agreed to change television Puls licence from religious into general one), at <http://www.parkiet.com/artypul/489732.html?print=tak> (accessed 13 February 2012).

206 Vadim Makarenko, "Jeszcze więcej golizny w television Puls" (Even more nudity on TV Puls), *Gazeta Wyborcza*, 2 September 2010, at http://wyborcza.biz/biznes/1,101562,8329906,Jeszcze_wiecej_rozrywki_w_television_Puls__Bedzie_wiecej_golizny.html (accessed 6 March 2011).

207 KRRiT, *Informacja o podstawowych problemach radiofonii i telewizji w 2010 roku (Information about the basic problems of radio and television in 2010)*, p.69, at <http://www.krrit.gov.pl/bip/KRRiT/Sprawozdania/tabid/61/Default.aspx> (accessed 16 June 2011).

208 Vadim Makarenko "Czy telewizja cyfrowa się nie opóźni?" (Will Digital television be late), *Gazeta Wyborcza*, 13 April 2012, p. 24.

209 KRRiT, *Strategia Regulacyjna na lata 2011-2013 (KRRiT Regulation Strategy 2011–2013)*, Warsaw 2011, p. 39.

Table 25.

Funding of TVP, breakdown by source of funding (% of total funding)

	2005	2006	2007	2008	2009	2010	Change (p.p.) 2005 /2010
Revenue from commercial advertising	55.3	56.8	55.2	55.9	62.2	60.4	+5.1
Sponsorship	5.5	5.7	5.2	5.2	6.0	7.6	+2.1
License fee	28.3	28.3	24.7	18.7	16.9	12.2	-16.1
Financial revenue	2.7	1.7	1.5	1.8	0.5	0.9	-1.8
Other sources	8.2	7.5	13.4	18.4	14.3	19	+10.8

Source: KRRiT Information for 2007, 2008, 2009, 2010, 2011

In 2009 the largest share of TVP's sales revenues, PLN 1.21 billion (US\$405 million) was from commercial sources (advertising, telemarketing, sponsorships and other commercial revenues). The revenue from license fees accounted the same year for PLN 300 million (US\$100 million), representing 17 percent of its total income. In 2010, revenue from commercial sources raised to PLN 1.33 billion (US\$ 445 million) and the license fee declined to PLN 240 million (US\$80 million). Over just four years the license fee income of TVP has halved.

The result was poor economic performance of TVP in recent years. In 2009 it incurred losses of PLN 205 million (US\$ 68 million); in 2010, after cuts in headcount, the budget was balanced; in 2011 TVP was PLN 88 million (US\$ 30 million) in the red again despite cuts in employment from 4,055 to 3,600 full time employees.²¹⁰ For 2012 TVP officially foresees a loss of PLN 60 million (US\$ 20 million) but experts expect something like PLN 200 million (US\$ 66 million) in the red. On the other hand, public television has the lowest productivity, employing four times more people than its competitors. In 2011, according to Nielsen Audience Measurement, TVP needed 173 full-time employees to get 1 percent of nationwide viewership on its nine channels, while Polsat Television needed 41 for its 12 channels and TVN needed 42 people for 11 channels.²¹¹

The only direct subsidy from the budget for public media comes from the Foreign Ministry budget, which covers part of the operating costs of TVP Polonia. Until 2007 it was up to PLN 2 million (US\$ 0.7 million), from then on about PLN 11m (US\$ 3.66 million), which in 2012 will constitute about 40 percent of the budget TVP Polonia PLN 28.4 million (US\$ 9.47 million).²¹²

In 2009, because of the economic crisis, ad discounts were probably higher than in 2008. It is safe to assume that average markdowns for the largest television companies were up to 50–60 percent of the rate cards.

210 K. Baranowska, "TVP ostro pod kreską" (TVP deep in red), *Rzeczpospolita*, 2 March 2012, p. A4.

211 Magdalena Lemańska, Cezary Adamczyk, "Telewizja Polsat i TVN biją TVP efektywnością" (Polsat television and TVN beat TVP in effectiveness), *Rzeczpospolita*, 13 March 2012, p. B1.

212 "TVP Polonia ma coraz mniejszy budżet" (Shrinking budget of TVP Polonia), *Wiadomości Onet.pl*, 18 January 2012, at <http://wiadomosci.onet.pl/media/tvp-polonia-ma-coraz-mniejszy-budzet,1,5001958,wiadomosc.html> (accessed 30 April 2012).

According to media house Starlink, overall television ad worth in 2009 was PLN 6.945 billion (US\$ 2.315 billion), which was 11.4 percent less than in 2008. The market grew only in internet advertising (by 9 percent), and cinema (by 6 percent). In 2009, the internet took second place in attracting advertisers' money after television and before magazines.

In 2011 overall ad spending in Poland grew only by 1.9 percent year on the year reaching PLN 7.492 billion (US\$ 2.497 billion). The highest growth, as usual, was noted for the internet (18.8 percent television reached only 0.6 percent growth (but for theme channels the growth was 19 percent), still better than dailies (−9.1 percent) and magazines (−4.5 percent). In 2011, the sectors with the highest growth in ad spending were the finance, trade, pharmaceutical, and garment industries.

Table 26.
Advertising in Poland (in PLN billion), 2006–2011

	2006	2007	2008	2009	2010	2011
Overall in PLN bn	5.556	6.570	7.719	6.945	7.338	7.492
Growth % yty	10.4	18.3	17.5	−10.0	5.7	2.1
Internet % yty	59.3	40.7	31.2	9.0	23.2	18.8
Television % yty	12	17.4	14.5	−11.9	7.2	0.6
Magazines % yty	3.6	5.6	4.2	−14.8	−6	−4.5

Source: www.starlink.pl yearly reports

In 2010 television had 52.3 percent of the entire Polish ad market, but changes in the profile of the television industry work in favor of specialized and against the general television channels, like TVP. According to Nielsen Audience Measurement, the ad market share of the biggest “trojka” of Polish television broadcasters: TVP, TVN, Polsat dropped from 67 percent in 2009 to 62.9 percent in 2010. “Forecast growth of the television market in 2011 from 3 percent (Group M) to 7.3 percent (Zenith Optimedia) depends on the broader offer of specialized television channels,” concluded KRRiT in its 2010 annual report. In 2010 out of 15 new channels on the market, 13 were film channels.²¹³ Also VoD and HDTV are expected to grow rapidly.

Table 27.
Advertising income of public and private broadcasters (in PLN million), 2007–2010

	2007	2008	Change (%), yoy	2009	Change (%), yoy	2010	Change (%), yoy
TVN	2,192	2,865	30.7	2,854	−0.4	2,870	0.6
Polsat	2,248	2,754	22.5	2,635	−4.3	2,729	2.6
TVP1	1,559	1,490	−4.4	1,774	19.1	2,114	19.2
TVP2	1,077	976	−9.4	1,149	17.7	1,397	21.6

Source: TNS OBOP calculation based on rate cards, before discounts

213 KRRiT, “Informacja o podstawowych problemach radiofonii i telewizji w 2010 roku” (Information about the basic problems of radio and television in 2010), p. 90, at <http://www.krrit.gov.pl/bip/KRRiT/Sprawozdania/tabid/61/Default.aspx> (accessed 16 June 2011).

Unusually high profits were disclosed to KRRiT by TV Trwam, the Roman Catholic national broadcaster based in the city of Torun. Its parent holding, Lux Veritatis Foundation, which owns TV Trwam, the cell phone network wRodzinie (in the Family), and sells CDs and DVDs, seems to be the most profitable organization in the Polish media sector. In 2009, with sales of PLN 20.6 million (US\$ 6.86 million), it had a profit of PLN 6.47 million (US\$ 2.16 million), over 31 percent more than in the previous year. At that time Polsat had a growth of 15.3 percent year on year in profit and TVN suffered a decline of 27 percent. However, the real source of the financial success of TV Trwam was not in sales, but in donations. While in 2008 and 2009 the income from business was PLN 3.4 million (US\$ 1.13 million) and PLN 3.95 million (US\$ 1.31 million), respectively, the donations in these years amounted to PLN 10.7 million (US\$ 3.57 million) and PLN 16.4 million (US\$ 5.47 million). It means they were four times higher than sales.²¹⁴

6.2.2 Other Sources of Funding

Polish accession to the EU resulted in access to new programming financing opportunities from EU funds. This results in public institutions (e.g., Ministry of Labor, Ministry of Agriculture) commissioning specific television programs. The usual goal of producing such content is to address certain social issues like unemployment, discrimination etc., which are considered of low priority by commercial broadcasters. Production of such content is financed or co-financed by the EU funds, so the station can significantly lower its costs of production. The final content viewed by the public is tagged as financed with EU funds.

Assessment of the issue shows that content produced in such manner is of good quality, and this kind of production is generally undertaken by regional television stations, not national ones. The limits of creating a “paid positive image” of the EU, are clearly demonstrated in an angry open letter by Jerzy Baczyński, the editor of the *Polityka* weekly, to the Minister of Regional Development, which distributes European funds: “Ordering positive newspaper stories, pretending to be neutral journalism, is a scandal, interfering with freedom of the media and the obligation to critically assess public institutions.”²¹⁵

As the advertising market becomes a fiercely competitive battleground, many media producers tend to shift to other sources of funding for new programming. One of these sources is product placement, which has been increasingly important for media producers in recent years. This is, however, classified by media managers as the lowering of production costs, not a source of funding. The obstacle for further analysis of the trend is the lack of reliable data on product placement’s share in the total funding of programming. The estimates are in millions of dollars; media advertising companies are closely watching this fast growing market.²¹⁶

However, product placement, seen as a “post-advertising” promotion approach, also has its limits. In the most popular television Polsat sitcom “Świat według Kiepskich” (The World According to Kiepskis) canned beer consumption takes place in almost every show, but beer cans have a yellow label marked “Mocny full”

214 Vadim Makarenko, “Trwają z zyskiem” (They exist with profit), *Gazeta Wyborcza*, 10–11 September 2011, p. 28.

215 Jerzy Baczyński, “Wstyd, Pani Minister” (Shame, Ms Minister), *Polityka* 2/2012, 11 January–17 January 2012, p. 7.

216 See, e.g., Pentagon research at <http://pentagon-research.com/eng/main.page> (accessed 18 June 2011).

(Strong full), non-existent on the market. Thanks to the popularity of the sitcom, “Mocny Full” has become potentially such a strong brand that one of beer producers in Poland started to sell it, but soon ceased under the threat of a lawsuit.²¹⁷ This case of “reverse product placement” shows the power of this marketing tool.

Poland missed the December 2009 deadline of implementation of the EU product placement directive by over 18 months. New rules governing product placement came into effect in August 2011. They have been implemented by the KRRiT and require television stations to clearly display an orange logo indicating that a program has product placement. The logo has to appear at the beginning and end of programs and also at their restart following commercial breaks. The rules only apply to programs produced after 23 May 2011.²¹⁸ Product placement is allowed only in films, soap operas, sports, and entertainment transmissions, but not in news, current affairs, interview and for children’s programs. No alcohol, tobacco or prescribed drugs may be placed this way.

6.3 Media Business Models

6.3.1 Changes in Media Business Models

In March 2011 TVN announced the closure of its first and only city channel, TVN Warszawa. Since its start in December 2008 TVN Warszawa had not managed to come out of the red. “The local advertising market does not indicate that TVN Warszawa could become profitable in 2011,” said Piotr Walter, deputy CEO of TVN Group. “The changes in media consumption patterns, especially audiovisual content, lead us to the conclusion that concentration of our activity on the internet will optimize the TVN Warszawa business model and assure that Tvnwarszawa.pl site, one of our leading products, will be used to its full advantage.”²¹⁹ In other words, even the capital’s ad market proved to be too small to support a fully-fledged, high-quality local television channel. The station, which launched at the very beginning of the economic crisis, had not made a profit for three years. Even such a powerful player as TVN could not afford any more losses and restricted TVN Warszawa to an internet site.

Another example of the power of internet was represented by the actions of TVP management to offset the dwindling income from the license fee. “TVP intensified promotional and marketing activities, such as online sales of DVDs, books, audio books and other TVP related paraphernalia, attracting viewers in the 16-49 age bracket through SMS contests, presence on internet and on social networks and using EU sources of financing.”²²⁰

217 See http://pl.wikipedia.org/wiki/Mocny_Full (accessed 18 June 2011).

218 “Poland rules on product placement,” *Broadband television News*, at <http://www.broadbandtvnews.com/2011/08/18/poland-rules-on-product-placement/> (accessed 10 September 2011).

219 Anita Dąbek, “TVN Warszawa przechodzi do online” (TVN Warszawa moves online), at <http://satkuriel.pl/news/64689/tvn-warszawa-przechodzi-do-online.html> (accessed 16 June 2011).

220 KRRiT, *Informacja o podstawowych problemach radiofonii i telewizji w 2010 roku (Information about the basic problems of radio and television in 2010)*, p. 5, at <http://www.krrit.gov.pl/bip/KRRiT/Sprawozdania/tabid/61/Default.aspx> (accessed 16 June 2011).

In 2011, one-fifth of all television advertising or PLN 750 million (US\$ 250 million) went to small channels, other than “big four” stations (TVP1, TVP2, TVN, Polsat) and this trend has been growing. “From mid-2012, thanks to digitization of terrestrial broadcasting, all Poles will get a free access to more than 20 television channels. About 30 percent of them, who didn’t have access to CTB and satellite television, will get a dozen channels instead of three (TVP1, TVP2, Polsat). This will expand market share of specialized television channels,” says At Media advertising house executive, Marcin Boroszko.²²¹

“For me, there is no doubt that specialized television channels are on the rise as business models and all the “talking heads” and current affairs programs will gradually migrate to specialized 24-hour news channels,” says Tomasz Machała from the Television Polsat news bulletin *Wydarzenia*.²²² An income analysis of television ads made by the media house Pan Media Western allows a closer look at the numbers. Among the top 25 current affairs productions which attracted the most advertising in first six months of 2011, there are 16 TVN24 programs; two of them are the leaders. TVN has fewer viewers and lower ad rates than TVP, but more programs. All current affairs programs bring in only 3 percent of all advertising money for television stations, while news programs account for 13 percent.²²³

These two examples confirm that the media business is in a time of change, no matter how severe the economic crisis was (in Poland it was rather mild). The internet has radically changed the way Polish consumers communicate, listen and watch. “We have 4.5 million Skype users, the biggest number in Europe, because Polish consumers have been tortured for years by expensive telecom prices,” said the media specialist Edwin Bendyk from *Polityka* weekly.²²⁴ “All digital industries: media, music and film have reasons either to cry or to change their business model. Access to the internet means access to unlimited sources of content, from press articles to Hollywood productions. “The existing system (of content distribution) favored producers and an elite group of artists who were included into official distribution systems,” says Jarosław Lipszyc of the Internet Society Polska. “Now it is in our best interest to release the content for free on the internet. In return we are getting free publicity and are able to earn on concerts, lectures, public meetings.”²²⁵

In 2009, in a public opinion poll done by Warsaw’s School of Social Sciences and Humanities (SWPS), 43 percent of young internet consumers declared that they watch the newest sitcoms, especially American ones, not on television, but on the internet, where you can find them for free. They prefer to watch television on the internet because with this medium they decide when and where to watch. “In the future this kind of active model of television consumption may be dominant on the market,” notes Dr Mirosław Filiciak from SWPS.²²⁶

221 Magdalena Lemańska, “Małe telewizje rosą w siłę” (Small television stations are getting power), *Rzeczpospolita*, 5 March 2012, p. B6.

222 Tomasz Machała, interview, Warsaw, 23 October 2011.

223 “Ile można zarobić na telewizyjnej publicystyce” (how much you can earn on television current affairs programs), *Gazeta Wyborcza*, 31 August 2011, p. 22.

224 Edwin Bendyk, “Świat za darmo” (World for free), *Polityka*, 4 March 2006, pp. 6–13.

225 Edwin Bendyk, “Świat za darmo” (World for free), *Polityka*, 4 March 2006, pp. 6–13.

226 Edwin Bendyk, “Większa połowa” (Bigger half), *Polityka*, 28 March 2009, pp. 40–46.

On top of internet change comes the change of mobile internet. In the mobile world telecom operators taught the consumer to pay for services, so the struggle between paid and free content may be resolved, but the 360 degree competition (all against all: print media vs. electronic ones) will continue on the market. Mobile television on MUX5 and MUX6 (maybe in DVB-T2 format, allowing up to 12 channels per MUX) used for paid content will make it even more intensive.

6.4 Assessments

Currently, media are not directly in the hands of politicians; however, until 2011, *Rzeczpospolita*, the popular opinion daily, was 49 percent owned by the state. In 2011 *Rzeczpospolita* was finally sold by the Treasury to a private investor. Media ownership is formally transparent, but in order to find real information it is necessary to investigate a bit.

Digitization has started to open space on the media market, which had been stagnant for several years. Originally, that opening was skillfully blocked by the oligopoly of dominant television players, able to reserve for themselves double space on MUX2, but changes are unavoidable. The first four newcomers will be active on MUX1 together with TVP, and then after its migration to MUX3, other newcomers will follow on MUX1. Mobile television on the next MUXes will expand the market much further.

It is too early judge whether ownership of media has had an impact on the performance and independence of the media under digitization. This transition should certainly benefit citizens and local media, but how it can be achieved remains to be seen.

In theory, public media should be the best model for publicly-relevant news content. In Polish public television just the opposite is true: with merely 12 percent of its financing coming from the license fee, TVP produces sensational, emotional, parochial news bulletins, worse than its commercial competitors, Polsat television and TVN. In general, the quality of media information in Poland is considered inadequate.

In October 2010, the Media Freedom Observatory of Helsinki Foundation for Human Rights expressed in a public letter “the concern regarding the lack of reliable foreign news in the Polish media. This applies to both public and commercial television, as well as to radio and the press. In our opinion, this situation has a significant effect on the right to information of citizens—it inevitably leads to depriving the Polish citizen of the ability to gather information about current international affairs.”²²⁷

227 “An open letter toward information pluralism in the polish mass media,” available at http://www.hfhrpol.waw.pl/obserwatorium/english/index.php?option=com_content&view=article&id=405:an-open-letter-toward-information-pluralism-in-the-polish-mass-media&catid=47:aktualnosciprog&Itemid=66 (accessed 19 June 2011).

The appeal sheds light on the problem, but obviously cannot solve it. The solution is probably in securing more competition in the private media sector and better public financing of TVP. The donation-driven profits of religious TV Trwam confirm that the license fee may be a source of income, but only when the media content has a definite appeal for the consumers. TVP, having three channels, 16 local branches and number of theme channels, has no such appeal. But there were cases of public radio listeners in Poland who collected money for their favorite programs.²²⁸ Maybe the license fee should not be paid for public media in general, but with some indication what specific television and radio program they should go to.

228 Dominika Wielowieyska, "Słuchacze Trójki zbierają pieniądze na promowanie młodych artystów" (Trojka listeners are collecting money to support young artists), *Gazeta Wyborcza*, 10 August 2009, at http://wyborcza.pl/1,98781,6910712,Sluchacze__Trojki__zbieraja_pieniadze_na_promowanie.html (accessed 10 September 2011).

7. Policies, Laws, and Regulators

7.1 Policies and Laws

7.1.1 Digital Switch-over of Terrestrial Transmission

7.1.1.1 Access and Affordability

In 2009, according to European Commission (EC) data, Poland was the only EU country late in digital switch-over preparations and indicating 2015 as the switch-off date.²²⁹ In February 2009, the EC informed that almost all member countries were ready to keep 2012 as the analog switch-off year.²³⁰ The Polish government bill about digitization was presented to the lower chamber of Parliament in the beginning of March 2011, and the law was signed by the president on 15 July 2011.

Of about 20 million television sets, only about 10 percent are MPG4 ready (see section 1). But not all of them have to be exchanged because about two-thirds of households get their television signal via satellite or cable operators. STBs will have to be bought for about three million existing television sets; some 1.5 million television sets will have to be replaced.²³¹ The only legal requirement on citizens' readiness in the digitization bill is that at least 95 percent of Polish households must have access to digital television before analog broadcasting can be switched off. It is planned to be done by 31 July 2013.²³² The complete coverage of all Polish households by a digital television signal is possible only by additional use of satellite transmission (DVB-S), which was discussed (see section 5.2.1).

7.1.1.2 Subsidies for Equipment

In the digitization law there is no provision for financial support to the poor to get access to digital television. According to the Minister of Infrastructure, responsible for digitization, the decision about this is to be

229 *Information from Member States on switchover to Digital television* (COCOM09-01), January 2009.

230 Press release, *EU Member States on course for analog terrestrial television switch-off*, IP/09/266, 16 February 2009.

231 Grzegorz Osiecki, "Na telewizję cyfrową wydamy 2 mld zł" (We will spend PLN 2 bn on digital television), *Dziennik Gazeta Prawna*, 2 March 2011, p. A7.

232 Grzegorz Osiecki, "Na telewizję cyfrową wydamy 2 mld zł" (We will spend PLN 2 bn on digital television), *Dziennik Gazeta Prawna*, 2 March 2011, p. A7.

made in mid-2012, only a year before switch-off of the analog signal.²³³ The cost of an STB was estimated at PLN 250 (US\$ 83) but cheaper offers of STBs which can be bought at the Post Office or Biedronka, a discount stores chain, are closer to PLN 50 (US\$ 17). However, these are devices of the lowest quality, not permitting full use of all digitization features, such as accessing additional audio channels.²³⁴ About 30 percent (4.2 million) of Polish 13.3 million households use terrestrial analog television signal. It means that buying STBs by them will cost about PLN 210 million (US\$ 70 million). There are roughly 1.35 million families living below the poverty level. Social support for them to buy STBs will cost about PLN 67.5 million (US\$ 22.5 million). The creation of a National Digital Fund, within the state-owned Bank Gospodarstwa Krajowego (National Economy Bank) is foreseen for that purpose, but no final decision has been made yet. The authorities wait for the Euro 2012 soccer championship, which should boost the conversion of television sets for more modern ones.²³⁵

7.1.1.3 Legal Provisions on Public Interest

7.1.1.4 Public Consultation

The new KRRiT, formed in August 2010, conducted consultations with NGOs about the strategy of digitization in the second part of 2011. KRRiT also declared that it would have regular consultation meetings with main industry partners as well as NGOs.²³⁶ The problem was that there are not too many active players (NGOs) in the field to take part in these discussions.

In the end the only groups that were consulted belong to the industry: organizations of broadcasters and other professional groups (journalists, authors, publishers), but not civil society organizations, which are not yet interested in this topic. When it comes to the internet, its users are much better in organizing themselves and they succeeded at least three times stopping overregulation of the internet.

7.1.2 The Internet

7.1.2.1 Regulation of News on the Internet

There is no specific regulation for content distribution on the internet and mobile phones; however, in the amendments to the radio and television law, introduced in Parliament in March 2011, there was an attempt to regulate all the commercial sites which carry audiovisual content. A month before starting such a site the owners of it were supposed to notify KRRiT. Then the regulator would have a month to object. No objection from the regulator would mean approval. “Government, get off the internet!” was one of several Facebook groups set up in response to the new law, already passed by the lower house of Parliament. Earlier, alarms raised

233 *Projekt Strategii Cyfryzacji Nadawania Sygnału Telewizyjnego (Project of Television Signal Digitization Strategy)*, Warsaw, September 2009, p. 28, at <http://www.mi.gov.pl/files/0/1791408/PROJEKTSTRATEGIICYFRYZACJINADAWANIASYGNAUTELEWIZYJNEGO.pdf> (accessed 4 April 2011).

234 Marcin Czyżewski, “Jak odbierać naziemną telewizję cyfrową” (How to receive terrestrial digital television), *Gazeta Wyborcza*, 18 May 2012, p. 27.

235 Marcin Czyżewski, “Jak odbierać naziemną telewizję cyfrową” (How to receive terrestrial digital television), *Gazeta Wyborcza*, 18 May 2012, p. 29.

236 KRRiT, “Strategia Regulacyjna na lata 2011-2013 (Regulation strategy for 2011–2013),” Warsaw, March 2011, p. 76, at <http://www.krrit.gov.pl/bip/LinkClick.aspx?fileticket=qT3TSHnddeA%3d&tabid=36> (accessed 9 April 2011).

by NGOs about the dangers of this law were ignored by authorities. Only under pressure on the internet, did the prime minister quickly withdraw the controversial parts of the bill, and it was finally passed without internet restrictions.²³⁷ The prime minister's office finally promised regular consultations with civil society/citizens groups based on this experience. A group representing pro-internet NGOs prepared a discussion agenda and was promised a meeting. The organizations involved were: Panoptykon Foundation (Panoptykon.org), Free and Open Programming Foundation (Fwioo.pl), Stowarzyszenie Projekt: Polska (ProjektPolska.pl), Nowoczesna Polska Foundation (Nowoczesnapolska.org.pl), Internet Society Poland (Isoc.org.pl/).²³⁸ It is no surprise that just these same NGOs were appalled by the government's furtive approval of the ACTA protocol and in February 2012 they refused to take part in meeting with Prime Minister about solving this issue (see section 3.2.1). The New Media Foundation (Fundacjanowemedia.org/en/contact) is also worth mentioning. They conduct educational programs, one of them called the Media Olympics, preparing youth for new media consumption and creation.

7.1.2.2 Legal Liability for Internet Content

The Press law in Poland still has its origins in the 1984 bill, passed under General Wojciech Jaruzelski's martial law regime—definitely not a proponent of press freedom. This law has been amended several times. The latest changes, prepared by the Ministry of Culture and National Heritage, were under discussion in the spring of 2011. However, they addressed primarily the distinction between two forms of public reaction to media criticism: correction and response; they were found unclear and therefore unconstitutional by the Constitutional Court in a 2008 ruling.²³⁹ In May 2012, a minor coalition party, PSL, decided to present the new press law draft as an MPs' project, which will shorten its way to becoming law. There is a corrected correction formula, as required by Constitutional Court sentence, and authorization of interview in a day or two, without prosecutors' charges for the lack of it.²⁴⁰

The proposed changes also address new forms of "press" published only on the internet. The old law said nothing about them, and the practice was regulated by courts decisions, which were often inconsistent and as a result contested. According to the draft bill, the press comprises of texts prepared by journalists and editors. Crucial is work over the text by the editor, who must be somebody other than the author. Therefore, blogs, posts and comments on internet sites do not belong to the press category. However, the author/owner of the internet publication would be free to register it as a press title in court, and then it can be treated as press and the author as a journalist. This person will have the right to stay anonymous, if he/she wishes and to protect the identity of his/her source.

But, on the other hand, the infamous Art. 212 of the penal code (see section 4.3.2) will apply to journalists, which puts them in risk of jail sentences for libel through the media. Sites not registered will be treated according to commercial law, therefore not being held liable for the content presented, especially user

237 "Alarm internautów: rząd chce cenzury sieci" (Internet users alarm: the government wants to censor internet), *Rzeczpospolita*, 15 March 2011, at <http://www.rp.pl/artykul/627214-Alarm-internautow---rząd-chce-cenzury-sieci.html> (accessed 7 April 2011).

238 "Rząd nie słucha internetu" (The government does not listen to the internet), *Gazeta Wyborcza*, 8 April 2011, p. 6.

239 Case SK 52/05, at www.trybunal.gov.pl/Rozprawy/2010/rozprawy.htm (accessed 19 June 2011).

240 "Nowe prawo dla prasy" (new press law), *Gazeta Wyborcza*, 18 May 2012, p. 8.

generated content (USG). In practice this is what happens now, where anonymous internet forum users are not held responsible for vulgar language, lies, slander and other offenses, punishable by law.

In May 2011, the Minister of Foreign Affairs challenged slander on the internet (see section 3.2.1) which led to the closing of some newspapers' internet forums, because their administrators lacked resources to remove offensive comments posted by anonymous internet users (see section 3.2.1). In other similar cases an official letter to the web administrator, demanding removal of the illegal content, was usually sufficient. Does this mean internet censorship? Not necessarily, according to Prof. Wiktor Osiatyński, a human rights expert, because the removal of the offending comments was voluntary "...not all anti-Semitic, racist or vulgar texts were eliminated, but only those, which were on the sites the owners of which decided to take them off." [...] The owner of internet page may not wish certain kinds of expression, will set up standards and eliminate what goes beyond them."²⁴¹

It seems that the new law captures the new media situation well. Treating every blog as a newspaper could indeed lead to frightening consequences. The case of Łukasz Kasprowicz, a local journalist and blogger in the small town of Mosina in western Poland, illustrates it well. For slandering the mayor of his town, Mr Kasprowicz was sentenced in February 2011 to: a ban on work in his profession for a year, a PLN 500 (US\$ 166) fine to the Polish Red Cross; ten months of obligatory reporting to police about his travel plus 300 hours of community service. On top of that he was ordered to publish apologies in the local newspaper *and* cover the cost of psychological and psychiatric tests the court ordered him to undergo.

Banning anybody from an open, not regulated profession that journalism is, was illegal. The Helsinki Foundation for Human Rights rushed to provide Mr Kasprowicz with legal services in his appeal and KRRiT published a rare, strong worded statement: "We remind that, according to the Constitutional Tribunal, freedom of the press is one of the key guarantees of a democratic system. Its duty is to provide a free society with news and ideas, without interference by the government or officials."²⁴² The alarm raised in the media worked. On 8 June 2011 the appeals court reversed the verdict and found the blogger innocent.²⁴³

7.2 Regulators

7.2.1 Changes in Content Regulation

The structure of media content regulators has not changed during the last five years, however recently the digital world got the representation on cabinet level: the Administration and Digitization Ministry was created after October 2011 general elections and Michal Boni, the PM Donald Tusk cabinet troubleshooter, was nominated to the new position.²⁴⁴ KRRiT in its 2012 Information, among other conclusions, says that

241 Piotr Najsztub, "Wolność słowa chamskiego" (Freedom of loutish expression), interview with Wiktor Osiatyński, *Wprost*, 16 May 2011, p. 34.

242 Jakub Górnicki, "Poland: Prosecuted Blogger Hopes for a Different Verdict," *Global Voices*, 23 February 2011, at <http://globalvoicesonline.org/2011/02/23/poland-prosecuted-blogger-hopes-for-a-different-verdict/> (accessed 8 April 2011).

243 "Blogger może krytykować, nawet jeśli szokuje" (Blogger may criticize, even if in a shocking way), *Gazeta Wyborcza*, 9 June 2011, p. 8.

244 See the ministry webpage at <http://mac.gov.pl/> (accessed 11 June 2012).

“the time to discuss setting up of one, integrated media regulator” seems to come soon, but lists pro and contra arguments for such a solution, warning against “possible dominance of technical and pro-business solutions over public interest in culture.”²⁴⁵

7.2.2 Regulatory Independence

There were multiple changes in KRRiT in the last five years, but all of them reflected the balance of political power in the regulators’ governing body; none of them seemed to be triggered by the digitization process.

To secure independence from political shifts, from 1993 on, one-third of the nine KRRiT members were elected every two years; four of them were chosen by the Sejm, two by the Senate and three appointed by the President. The term for all of them was six years. Despite that, until 2009 the left-wing SLD party, in power in 2001–2005, and a left-wing president who was in office in 1995–2005, managed to get an upper hand in the KRRiT. However, the Rywingate bribery affair of 2003 with which TVP’s President was associated, although not proven guilty of any criminal acts, changed the political climate so much that a member of the opposition PO party became the president of TVP in February 2004. After the 2005 elections won by the right-wing PiS party, the amendments to the broadcasting law were hastily pushed through Parliament, despite protests of the opposition. The newly elected right-wing President signed them on 30 December 2005; the government printed and distributed the law the same day.

In this way, the old KRRiT ceased to exist, leaving a legal vacuum for a month, until the Sejm voted in two of its new members, the Senate voted in one and the President appointed two. Only one of them, a media lawyer nominated by the President, fulfilled legal criteria of “distinguished record of knowledge and experience in mass media.”²⁴⁶

A year later, in April 2007, when the election of a TVP Supervisory Board member by KRRiT was openly tied to the approval of the President of Polish National Bank by the ruling PiS party, the only media specialist in KRRiT resigned in protest.²⁴⁷ The KRRiT Chair resigned few months later. In September 2007 two persons having no media experience at all were nominated by the President. KRRiT lost any public trust and drifted for three years.

In 2010, after the presidential elections won by the then ruling PO party candidate, another amendment to the broadcasting law was voted in, only for the sake of replacing KRRiT members. The President nominated two of them, supported by the center-right PO party, the Senate supported one from the coalition Peasant Party, and the Sejm elected two, identified with the opposition left. In this way the media ruling body achieved some political balance, but soon it proved to be a shaky one, because to decide about important matters KRRiT needs a majority of four out of five votes.

²⁴⁵ KRRiT, *Informacja o podstawowych problemach radiofoni i telewizji w 2011 roku (Information about radio and television basic problems in 2011)*, p. 84, at <http://www.krrit.gov.pl/krrit/informacje-o-krrit/sprawozdania/2011/> (accessed 11 June 2012).

²⁴⁶ Broadcasting Act, Art. 7(1), see <http://www.krrit.gov.pl/angielska/index.html> (accessed 12 March 2012).

²⁴⁷ “Wojciech Dziomdziora zrezygnował z członkostwa w KRRiT” (Wojciech Dziomdziora resigned from KRRiT), at <http://film.onet.pl/wiadomosci/wojciech-dziomdziora-zrezygnowal-z-czlonkostwa-w-k,1,4053373,wiadomosc.html> (accessed 26 April 2011).

The best measure of political influence in the KRRiT, and therefore in the public electronic media, is the number of Presidents TVP has had in the last five years—12. Only in the last three years TVP had seven Presidents. Five of them were “acting,” one served twice, the second time for two days only. No private company could afford to be run by “revolving door” managers in this way.

“After many months of an embarrassing spectacle, after suspending and reinstating TVP Presidents, the new Supervisory Board of public television has finally been chosen. But it was chosen the old fashioned way.” This led to a *Polityka* article about the situation in public media,²⁴⁸ alluding to an undemocratic past, demonstrates the original sin of TVP and Polish Radio: politicization. The TVP Supervisory Board has seven seats. Five members of KRRiT were not able to achieve consensus about whom to nominate for seven months from August 2010. Finally, the threat of a premature ending of the KRRiT term and election of a new council, this time without members supported by the left, forced them to compromise.

The TVP Supervisory Board was elected in March 2011. It is composed of four members supported by ruling PO party and its ally, the Peasant Party; two members from the opposition left (SLD); and one member from the opposition right (PiS, but closer to its offspring group, PJN). The Executive Board of TVP, nominated by them, is also politically balanced: TVP President Juliusz Braun comes from the Ministry of Culture, run by the ruling PO party. Of two other members of the board, one is connected with ruling PSL (Peasant Party) and the second one with the opposition SLD (post-communist left-wing).

KRRiT confirmed the choice of TVP management despite the appeals of the Polish Journalists’ Association (SDP) not to do so, because “the choice has been political.”²⁴⁹ “De-partying of public media proved to be a failure,” noted KRRiT president Jan Dworak. “However, the new TVP board is more pluralistic now. I do hope we will get rid of party cleaning operations and will work using good management practices.”²⁵⁰

The new draft public media law, prepared by a citizens’ committee of television producers and artists, is seen as the example of de-politicization of public media. It will not be taken up by the Parliament, despite a promise by the ruling PO party in 2010, when the project was handed over to the Sejm. KRRiT announced that after the autumn 2011 general elections it would prepare a new law, regulating the financing of public media and elections of their officials.²⁵¹ It did so in December 2011; however, the minister of culture, responsible for television, rejected the bill, finding KRRiT proposals “controversial and with legal faults.”²⁵² KRRiT has no legislative initiative on its own.

248 “Wojciech Dziomdziora zrezygnował z członkostwa w KRRiT” (Wojciech Dziomdziora resigned from KRRiT), at <http://film.onet.pl/wiadomosci/wojciech-dziomdziora-zrezygnowal-z-czlonkostwa-w-k,1,4053373,wiadomosc.html> (accessed 26 April 2011).

249 *Uchwała ZG SDP 20.04.2011 (SDP Resolution 20 April 2011)*, at <http://www.sdp.pl/uchwala-zg-sdp-20-04-2011> (accessed 19 June 2011).

250 Anna Dąbrowska, Mariusz Janicki, “Kanał” (Tube), *Polityka*, 12 March 2011, p. 15.

251 Anna Dąbrowska, Mariusz Janicki, “Kanał” (Tube), *Polityka*, 12 March 2011, p. 15.

252 “Bogdan Zdrojewski: Projekt KRRiT ma wady i nie trafi do Sejmu” (Bogdan Zdrojewski: KRRiT project has faults and will not be presented to the Parliament), *Wirtualne Media*, at <http://www.wirtualnemedia.pl/artykul/bogdan-zdrojewski-projekt-krrit-ma-wady-i-nie-trafi-do-sejmu> (accessed 13 February 2012).

The KRRiT chosen in 2010 proclaims the principle of transparency. Media were present when KRRiT was interviewing candidates to the TVP Supervisory Board. Only meetings with candidates for the TVP Executive Board (three members chosen) were recorded and are to be published after the process. Two journalists' associations demanded full openness of this process, but the KRRiT rejected this, arguing that these talks were of a proprietary nature.

7.2.3 Digital Licensing

Licences, required under the law for transmission of any program services other than retransmission of programs previously transmitted by stations licensed in Poland or elsewhere, or the channels of public radio and television, are issued by KRRiT. Their validity has been extended to 10 years and a special, shorter, procedure for renewing the license was introduced.²⁵³ KRRiT also awards digital licenses. It did so in a tender for four free channels on MUX1 and will do it again when TVP moves its three programs from MUX1 to MUX3 before 31 July 2013 (see section 5.1.2).

Complaints about the licensing system come mainly from those who lost in the process. KRRiT claims it is open and transparent: the calls are placed on the KRRiT website; the participants are also listed there. Detailed information about the licensing process and its results has been also published in the 2011 KRRiT yearly report.²⁵⁴ No obvious cases of favoritism were documented by the press or civil society organizations; however, lack of space for religious, private TV Trwam on the first MUX caused political uproar, street protests, letters to the President and European Parliament, as well as a court case (see section 5.1.2).

7.2.4 Role of Self-regulatory Mechanisms

The 2010 changes in the data protection law remove the right to obtain personal information about an internet user by somebody who was slandered by this person. "Instead of being regulated by law, these cases should be taken care of by self-regulation of the industry," explains internet lawyer Grzegorz Wanio.²⁵⁵

This example illustrates the tendency for self-regulation, which takes place, but is not widely applied yet. A Press Council envisaged in the 1984 press law, never materialized and has no chances of being established because of this fatal historical connotation with the worst time for press freedom in Poland. The ethics committees of journalists' associations are as weak as the associations themselves. Ombudsmen or in-house media critics or readers' representatives are still unheard of. A Media Ethics Council (Rada Etyki Mediów) has been operating since 1995, but the legitimacy of this voluntary body and its verdicts, with only moral implications, and no enforcement mechanism at all, have been repeatedly challenged, especially in the last few years.

253 Broadcasting Act, art.36.

254 See <http://www.krrit.gov.pl/bip/KRRiT/Sprawozdania/tabid/61/Default.aspx> (accessed 19 June 2011).

255 Sławomir Wikariat, "Dane anonimowego autora wpisu na forum do ujawnienia" (Anonymous poster's identity can be revealed), *Rzeczpospolita*, 7 March 2011, p. C3.

There has been more success with ethical codes. Each of the three journalists' associations has one, and the Media Ethics Council has been founded on the basis of a Media Ethics Charter. There are also professional codes for employees of public television and radio, as well as for major newspapers. On the internet there are plenty of codes of online conduct behavior. But all of that does not mean that there is a practice automatically follows theory. It takes time and effort for journalists to get used to following ethical codes.

7.3 Government Interference

7.3.1 The Market

There are no cases of state interference that directly distort the media market, unless the whole concept and existence of public media is being treated as such. In 2006 a relatively unknown association, *Przychodnia*, notified the European Commission about illegal public support that TVP and Polish Radio were getting without notifying appropriate European institutions about it. According to EU experts, public broadcasters may get state support only to compensate them for the fulfillment of their public service mission. TVP says that all of its programs fulfill the mission, but *Przychodnia* argued this was not so.²⁵⁶

The former head of the Agency for Protection Consumers and Competition stated that “based on the European Council directive 659/99, public broadcasters use illegal forms of public support.”²⁵⁷ The *Przychodnia* complaint was taken into account in a study of European media concentration and attempts of political influence launched by the EC in January 2007, which was confirmed by a letter to Paweł Dobrowolski in early 2011.²⁵⁸

One of the many Polish paradoxes was that the government of a democratic country, a member of the EU and NATO, owned since 1989, albeit only a 49 percent share, in a daily national newspaper—*Rzeczpospolita* (The Republic). The majority share in this opinion newspaper was being held by a foreign investor, originally French Hersant, later Norwegian Orkla Media, and finally British Mecom of David Montgomery. For years *Rzeczpospolita* was among the fiercest critics of the center-right PO government. In October 2011 *Rzeczpospolita* was finally sold to a private Polish investor (See section 6.1.2).

7.3.2 The Regulator

There is no evidence of digital regulators overtly abusing their powers. However, since 2010 KRRiT has been more active in punishing broadcasters for alleged violations of media law. A fine of PLN 300,000 (US\$ 100,000) was imposed on TVN for talking about sexual practices in explicit language on a popular talk-show in the afternoon. TVN announced it would challenge this decision in administrative court.²⁵⁹ KRRiT imposed

256 See http://www.dobrowol.org/przejrzystemedia/television_abonament_briefing.pdf (accessed 17 June 2011).

257 “Wpływy z abonamentu bez zgody Brukseli” (License fee income without approval from Brussels), *Rzeczpospolita*, 16 July 2005.

258 See http://www.dobrowol.org/przejrzystemedia/television_abonament_briefing.pdf (accessed 17 June 2011) and e-mail to the reporter, 7 February 2012.

259 See <http://mediafm.net/telewizja/30368,300-tys.-zl-kary-za-Rozmowy-w-toku-od-Przewodniczacego-KRRiT.html> (accessed 26 April 2011).

an even higher fine, PLN 350,000 (US\$ 117,000) on Cyfra+ for not fulfilling the license requirement for Polish content. The channels Planete, ZigZap, Mini Mini, Ale Kino, Canal+ Sport and Cyfra+ were fined for insufficient European and Polish content and content from independent producers. They also announced a court challenge of these fines, because according to the company there are not enough Polish documentaries on the market, and broadcasting of Polish sport events, often produced with international partners, is not treated as local input by KRRiT.²⁶⁰

7.3.3 Other Forms of Interference

There are no cases known to the authors of this report where the state authorities have exerted extra-legal pressure on digital media.

7.4 Assessments

In general, the institutional and policy-making framework seems to be adequate for the challenges of digitization. The licensing process is transparent and free, despite having been contested by some of the participants, who did not get a slot on the MUXs. Independent news production depends on the media, editors, the quality of journalists, and public debate. All pieces of this puzzle are in place, which does not mean they always fit to create the ideal picture.

There are many black spots: in public television the lack of license-fee funding together with the oversized structure of TVP makes it commercialized and politicized. In private television channels it is the softening of news for boosting viewer numbers that is threatening the quality of news production. On the internet slanderous entries are tolerated by site owners to attract visitors. In the regulatory sphere, legal restrictions on media concentration and cross ownership are missing.

There has been no substantial change in the way the state authorities act in the years 2005–2010; in fact the UKE and UOKiK acted frequently to keep competition in the telecom industry alive. Another electronic media regulator, KRRiT, has intensified controls ensuring adherence to laws and started to issue higher fines for breaking the licensing contract requirements. At the same time, it has started to look closer at securing competition in a digital environment. In this sense, digitization made authorities aware of the need for better competition policy.

However, the opposition points out that the PO government in 2009 and 2010 tried to introduce the Register of Illegal Sites and Services aimed at the virtual world. During a series of discussions with NGOs the idea was abandoned, but this does not mean the authorities are fully convinced that state interference in the digital world should be extremely cautious.²⁶¹ Access to information, primarily realized through the internet,

260 „KRRiT ukarała kanały Cyfry+. Zapłacią 350 tys. zł” (KRRiT punished Cyfra+ stations. They will pay PLN 350,000),” *Wyborcza. Biz*, 5 April 2011, at http://wyborcza.biz/biznes/1,101562,9382664,KRRiT_ukarala_kanaly_Cyfry___Zaplaca_350_tys_zl.html (accessed 19 June 2011).

261 See <http://prawo.vagla.pl/node> for the best, non-political watchdog site in Poland.

was unexpectedly narrowed by the so-called Rocki amendment, added in the last moment to the changes to a law on the access to public information, passed hurriedly during the last session of Parliament before the 2011 elections. The amendment blocked publication of opinions and analysis paid for with public money, if they could jeopardize state secrets or the economic interests of the state, which makes it a rubber-stamp law.²⁶²

The public debate on new media technologies is alive only when it concerns the internet. Internet users are focused on protecting their freedom; they use their organizational power to protect what they consider crucial to maintaining freedom of expression, pluralism, and freedom of access (which for a good part of them means free access) to the web.

The traditional television viewers are not organized at all. There are no assurances of government support for the purchase of STBs for those living below the poverty line; the process of digitization seems to be an orphan, abandoned by the mother of the Ministry of Infrastructure and reprimanded by the KRRiT father, who can only lecture how others should properly raise children.²⁶³

It is too early to judge which policies and legal provisions relating to digitization have had an impact, direct or indirect, on pluralism and diversity in digital broadcasting.

262 “Wniosek Prezydenta w sprawie poprawki sen. Rockiego już w Trybunale Konstytucyjnym” (Presidential motion about Sen. Rocki’s amendment already in the Constitutional Tribunal), *Prawo Vagla*, at <http://prawo.vagla.pl/node/9545> (accessed 23 October 2011).

263 KRRiT, “Polityka informacyjna w zakresie konwersji cyfrowej przykłady Finlandii, Szwecji i Wielkiej Brytanii” (Information Policy about Digitization in Finland, Sweden and Great Britain), at <http://www.krrit.gov.pl/bip/LinkClick.aspx?fileticket=mdFod6u10kY%3d&tabid=115> (accessed 19 June 2011).

8. Conclusions

8.1 Media Today

The independence, diversity and pluralism of news media are changing with remarkable speed. The trigger of change is the emergence of traditional electronic media as online outlets. There are almost no limits to freedom of establishing one's own blog, or even a radio or television program there (YouTube is the best example), but other concerns have to be taken into account: the quality of such creations, understood in the context of values of traditional journalism, such as truth-seeking, separation of fact and commentary, asking for another point of view, etc. Then there is the availability problem, for which sites such as YouTube, Facebook or, in the Polish case Nasza Klasa, are only a partial solution. If you want to publish outside of them, getting through to your public is the most difficult challenge.

Therefore, in theory with the arrival of internet publishing news media have achieved the utmost *independence*. The existence of hate sites, banned by Polish law, but located on servers outside Polish jurisprudence, are a sad confirmation of that. On the other hand, being independent does not mean being read, listened to, or viewed by a broad audience. This is the easiest to achieve by giving up the independence and contributing to one of a few, but the most popular internet media providers, following the legal, business and sometimes also political requirements, or at least political correctness being applied there. The story of Salon24.pl site, discussed in detail in section 4.2.4, is the best example of it.

This does not mean, though, that determined and persistent people could not present an independent voice using new media on the internet. The story of NGI.24 and its founder, Mariusz Zielke, proves that independent internet publishing is possible.

So, in the past five years, the independence of news media in Poland has been enhanced by the development of internet media, and diminished by concentration of media ownership, tabloidization of media, and lack of the important "third sector" (community radio stations, universities' and associations' broadcasters), in electronic media. The same goes for *diversity* and *pluralism* of the media.

8.2 Media Tomorrow

One can assume that when digitization of television broadcasting finally picks up speed in Poland, the trends already visible in the media market will only intensify. There will be more soft news, and more television stations will become more tabloid-like; more people will be getting their news from specialized channels than from the general interest ones; the internet will take over from television as the primary source of information for the younger generation, people in their twenties.

It is obvious that digitization of broadcasting will be the most important change in the years to come. The three MUXes that are set up now, and the next three which will follow them before 2015, will significantly broaden the technical possibilities for digital broadcasting. Whether the Polish market gets new substantial players, who will be able to break up the oligopoly of three broadcasters—TVP, Polsat and TVN, having together over 80 percent of the television advertising market—remains to be seen. A good indicator will be the fate of TVN Television, offered for sale in mid-2011 by ITI media conglomerate.

Two world-known media companies were possible buyers: Time Warner and Vivendi, but at the very end Vivendi was given the upper hand.²⁶⁴ In 2012 another part of ITI holding, the internet portal Onet.pl was on sale for around of PLN 1 billion (US\$ 333 million). The African media giant Naspers and Ringier Axel Springer Polska (RASP) were mentioned as prospective buyers.²⁶⁵

The new authorities of the media regulator (KRRiT) promise to pay greater attention to “third sector” media development, which may result in fee breaks for them and other forms of support, also on the regional and local level. The NGOs will increase their presence in “traditional” electronic media and on the internet.

The public television broadcaster TVP and radio PR will have to clear the path of development. The continuation of the trend, which pushed license fee income share in total TVP income down to single digits, seems impossible to be continued. But TVP has been losing its dominant position on the television market for years, and no change was ever introduced, despite many pronouncements of a need for change.

The privatization of its significant parts seems to be politically too risky; however, the ruling PO party had it in its program back in 2007. The idea of financing TVP directly from the budget also failed. It seems that when politicians do not want to die for TVP, the public broadcaster will do it by itself, at least as non-commercial public television. The growing shift of advertisers’ money from the press to the internet will help to support this process. The expected growth ratio of internet advertising close to 13 percent a year will allow to almost double the market between years 2008 and 2013. Interestingly enough, according to a study by the consultancy Deloitte, internet advertising will not eat up television advertising in a foreseeable future in Poland, because it will grow at the expense of print media, not television.²⁶⁶

264 “Kto kupi TVN? Na rynku już tylko dwóch graczy” (Who will buy TVN? Only two players on the market), at http://www.wiadomosci24.pl/artykul/kto_kupi_tvn_na_ryнку_juz_tylko_dwoch_graczy_212860.html (accessed 20 October 2011).

265 Magdalena Lemańska, “Onet może jednak pójść pod młotek” (Onet may be sold anyway), *Rzeczpospolita*, 22 March 2012, p. B7.

266 “Deloitte: w Polsce internet nie zgrozi telewizji” (Deloitte: in Poland internet will not threaten television), *Wirtualne Media*, 17 February 2011, at <http://www.wirtualnemedi.pl/artykul/deloitte-w-polsce-internet-nie-zagrozi-telewizji#> (accessed 23 October 2011).

9. Recommendations

9.1 Policy

9.1.1 Spectrum Policy

9.1.1.1 Reform of Spectrum Allocation Policy

Issue

In early 2012, the failure of the private Catholic television station, TV Trwam, to win the tender for one of four slots on the digital multiplex 1 became a major political issue. TV Trwam's application was rejected because of the station's failure to demonstrate projected financial stability; its financial model relies heavily on voluntary donations from viewers. The broadcaster cites a loan from the Redemptorist Order as the source of funds for paying the MUX fee, pledging to pay it back before the end of the license period.

The current legislative framework provides no special provisions for such broadcasters; they are simply classified as commercial broadcasters. The regulator has limited room for flexibility on this matter since Art.4 of EC Directive 2002/77/WE of 16 September 2002 prohibits the granting of exclusive or special rights in awarding spectrum, which must be based on "transparent, non-discriminating and proportional criteria."

Recommendation

The government and Parliament should amend the radio and television law and add new provisions for a third category of social broadcasters. The amended law should allow for such broadcasters to obtain a portion of their income from advertising and public fundraising campaigns, and financial guarantees for their presence on digital multiplexes should be devised. The new law should also guarantee space on digital multiplexes for local and regional stations.

9.2 Media Law and Regulation

9.2.1 Adoption of Limits on Media Ownership and Rules on Cross-Ownership

Issue

Legal provisions limiting media concentration are vague and there are no restrictions on media cross-ownership. In 2004, the European Parliament singled out Poland as one of six European countries with no provisions limiting media ownership. The only ceiling for ownership is a 49 percent cap that applies only to owners outside the EU (meaning, in practice, investors from the United States and their majority-owned European subsidiaries). Although the Broadcasting Act prohibits the awarding of a broadcast license if allows the applicant to achieve a dominant position, it does not define what a dominant position is. The general competition law is only slightly less vague, allowing for inconsistent interpretations. Restrictions on cross-ownership in broadcasting proposed in KRRiT's 2005-2015 strategy paper were never enacted. A number of domestic and foreign media owners in Poland have stakes in print and broadcasting.

Recommendation

Parliament should amend the Broadcasting Act with precise limits on media concentration and rules on cross-ownership.

The electronic media regulator, KRRiT should apply the rules on cross-ownership proposed in its own strategy, such as the ceiling of 30 percent for print and electronic ownership in a single market. It should introduce caps on the number of electronic and print media outlets owned by an entity in a given market.

9.3 Public Service in the Media

9.3.1 Develop a Sustainable Mechanism for Funding Public Service Content

Issue

Between 2007 and 2012, license fee revenue to fund public broadcasters fell steadily. As a result, close to 90 percent of public television income in 2012 came from advertising and other commercial sources.

The hole in license fee payments has grown dramatically, and the government does nothing to reverse this trend. The license fee cannot indefinitely be the only source of funding for public service media. The payment of this tax is voluntary and there are no legal sanctions against those who fail to pay it. On the other hand, extending this fee to owners of computers is not working. For the younger generation, to “register” television, radio sets and computers at the post office is a joke. Recognizing this, KRRiT backed away from the requirement that computers, tablets and smartphones should be registered as “radio and television receivers”, pointing out that such reception is not the basic function of these devices.

Recommendation

The Culture and National Heritage Minister has been working on a new law on radio and television since 2011. The recommendations contained in a Constitutional Court decision of 16 March 2010 (K/24/08), as well as those issued with the KRRiT 2012 Annual Report, published in March 2012, should be incorporated in the draft law.

The following provisions should also be included in the law:

1. The registration requirement for television and radio sets should be terminated under the assumption that every household owns a radio and/or television set; people should be given the option of an opt-out written statement with the condition that they accept an inspection from the agency in charge of collecting license fee;
2. Compensation from the state budget to broadcasters to cover losses from license fee exemptions should be introduced;
3. The agency collecting fee payments should be empowered to inspect households that signed an opt-out statement.
4. The agency collecting fee payments should be empowered to impose fines for non-payment of the license fee;
5. The tax authorities should be empowered to collect license fee arrears based on court orders;
6. Corporations should be required to pay the license fee according to the number of receivers they have in use;
7. Reporting license fee payment should be part of the individual and corporate annual tax return.

List of Abbreviations, Figures, Tables, and Companies

Acronyms and Abbreviations

ACTA	Anti-Counterfeiting Trade Agreement
ADSL	Asymmetric Digital Subscriber Line
CA	Conditional Access
CBOS	Center for Public Opinion Research (<i>Centrum Badania Opinii Społecznej</i>)
CPI	Consumer Price Index
DVB	Digital Video Broadcasting
DVB-T	Digital Video Broadcasting—Terrestrial
DTH	Direct-to-Home
DTT	Digital Terrestrial Television
EBRD	European Bank of Reconstruction and Development
ECHR	European Court of Human Rights
EPG	Electronic Program Guide
GDP	Gross Domestic Product
GNI	Gross National Income
GPS	Global Positioning System
GSM	Global System for Mobile Communications
GUS	Central Statistical Office (<i>Główny Urząd Statystyczny</i>)
IPN	Institute of National Remembrance—Commission for the Prosecution of Crimes against the Polish Nation (<i>Institut Pamięci Narodowej—Komisja Ścigania Zbrodni przeciwko Narodowi Polskiemu</i>)
IPTV	Internet protocol TV
iTVP	Interactive TV
HFHR	Helsinki Foundation for Human Rights (<i>Helsińska Fundacja Praw Człowieka</i>)
IMF	International Monetary Fund
IWP	Press Publishers Chamber (<i>Izba Wydawców Prasy</i>)
KRRiT	National Broadcasting Council (<i>Krajowa Rada Radiofonii i Telewizji</i>)

KRD	National Register of Debts (<i>Krajowy Rejestr Długów</i>)
KRS	National Court Register (<i>Krajowy Rejestr Sądowy</i>)
LLUB	Local Loop Unbundling
LTE	Long-Term Evolution
MMS	Multimedia Messaging Service
MPEG	Moving Picture Experts Group
MTR	Mobile Termination Rate
MUX	Multiplex
NBP	National Bank of Poland (<i>Narodowy Bank Polski</i>)
NEB	National Economy Bank (<i>Bank Gospodarstwa Krajowego</i>)
NIK	Supreme Chamber of Control (<i>Najwyższa Izba Kontroli</i>)
NGO	Non-Governmental Organization
NSA	Supreme Administrative Court
ODIHR	Office for Democratic Institutions and Human Rights
OFCOM	Office of Communications (UK)
PiS	Law and Justice party (<i>Prawo i Sprawiedliwość</i>)
PJN	Poland Comes First party (<i>Polska Jest Najważniejsza</i>)
PO	Civic Platform (<i>Platforma Obywatelska</i>)
PSL	Polish People's Party (<i>Polskie Stronnictwo Ludowe</i>)
PSB	Public Service Broadcasting
REM	Media Ethics Council (<i>Rada Etyki Mediów</i>)
RPO	Civil Rights Ombudsman (<i>Rzecznik Praw Obywatelskich</i>)
SDP	Polish Journalists' Association (<i>Stowarzyszenie Dziennikarzy Polskich</i>)
SLD	Democratic Left Alliance (<i>Sojusz Lewicy Demokratycznej</i>)
SMS	Short Message Service
SPJN	Poland Comes First Association (<i>Stowarzyszenie Polska Jest Najważniejsza</i>)
STB	Set-Top Box
SWPS	Warsaw School of Social Sciences and Humanities (<i>Szkoła Wyższa Psychologii Społecznej</i>)
TVHH	Percentage of total number of TV households
TVoIP	Television over Internet Protocol
UGC	User-Generated Content
UKE	Office for Electronic Communications (<i>Urząd Komunikacji Elektronicznej</i>)
UOKiK	Office for the Protection of Competition and Consumers (<i>Urząd Ochrony Konkurencji i Konsumentów</i>)
VDSL2	Very High-Speed Digital Subscriber Line 2
VoD	Video-on-Demand

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Companies

4fun Media	Carcom
Aero2	CenterNet
AGB Nielsen Media Research	Cyfra+
Agora	Cyfrowy Polsat
Apax Partners	Deutsche Telekom
Astro	Discovery Communications
ATM Grupa	eMarketer
Autoinvest	Emitel
Axel Springer Polska	Era
Besta Film	Eurozet Group
Bauer Media	Excicom
Biznes television	Facebook
Cable Television Networks	Forticom
Canal+	France Telecom

Fujitsu
Glob 360
Grupa Radiowa Agora
Group M
GTP
Hersant
Highgate Capital Investment
Info TV FM
ITI
Kino Polska
Lemon Records
Lux Veritatis Foundation
Mecom Group
Mediasat
Millward Brown SMG/KRC
Mobyland
Montagu
Multimedia
Multimedia Poland
Murator
Naspers
Nasza Klasa (Poland's Facebook)
Neostrada TP z Telewizją
Netia
NetTrack
News Corporation
Newsweek Polska
NextWebMedia
Nielsen Audience Measurement
Optimus
Orange
Orkla Media
P4
PKN Orlen
Play
Plus GSM
Polkomtel
Polish Press Agency (PAP)
Polish Radio
Polsat

Polsat Cyfrowy
PTC
PTC Era
PTK Centertel
Puls
Radio Group Time
Radio Zet
Ringier Axel Springer Polska (RASP)
RMF Group
RTL Group
SPI International
Stavka
Siemens Computers
Starlink
Superstacja
T-Mobile
TDC Internet Polska
Telekomunikacja Polska Group
Telenor
Telestar
Telewizja Familijna
Television Puls
Telewizja Polsat
Time Group
Time Warner
TNS OBOP
TP Capital Group
TV Point Group
TVN Media
TVN Group
TV4
UPC
Vectra
You Tube
ZPR SA (Zjednoczone Przedsiębiorstwa Rozrywkowe)
United Entertainment Companies
Videostrada
Vivendi
Wholesale Line Rental
Zenith Optimedia

Mapping Digital Media: Country Reports

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Mapping Digital Media is a project of the **Open Society Media Program** and the **Open Society Information Program**.

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The Media Program works globally to support independent and professional media as crucial players for informing citizens and allowing for their democratic participation in debate. The program provides operational and developmental support to independent media outlets and networks around the world, proposes engaging media policies, and engages in efforts towards improving media laws and creating an enabling legal environment for good, brave and enterprising journalism to flourish. In order to promote transparency and accountability, and tackle issues of organized crime and corruption the Program also fosters quality investigative journalism.

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For more information:

Open Society Media Program

Open Society Foundations

7th Floor Millbank Tower, 21–24 Millbank
London SW1P 4QP, United Kingdom

mappingdigitalmedia@osf-eu.org

www.mappingdigitalmedia.org

www.soros.org/initiatives/media

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