

# MAPPING DIGITAL MEDIA: SPAIN



# Mapping Digital Media: Spain

**A REPORT BY THE OPEN SOCIETY FOUNDATIONS**

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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 in 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: Spain

## Executive Summary

Since 2005, Spain has designed and implemented aggressive digitization policies that secured the switch-off of analog television in 2010, and developed the digital terrestrial television (DTT) market to saturation point. As a result, cable and satellite subscription services have experienced some decline since 2008. The rapid rise of free-to-air (FTA) digital television has not, however, been replicated in radio, where take-up of the assigned digital audio broadcasting (DAB) standard has been marginal, with little promise of imminent significant growth. This is attributed to a policy focus on digital television, the absence of a digital radio publicity campaign and a switch-off deadline, and the cost of upgrading to digital radio faced by consumers and broadcasters alike.

Like digital television, the roll-out of broadband infrastructure has been successful, accounting for 99 percent of all fixed-line connections in 2010. But the consumers' cost of connection remains one of the highest in the European Union (EU), and an enduring digital divide is reflected in the fact that fixed-line internet connections reached only 22 percent of households in 2010. The most competitive broadband and television package prices are on average more than 20 percent dearer than comparable packages in other EU countries. There are signs that mobile broadband might help to plug this gap, with substantive year-on-year growth in take-up of 3G services and smartphones since 2008.

Internet take-up has not grown at the expense of traditional platforms. The reach of radio, television, and even newspapers has remained stable. Television consumption actually grew from an average of 221 minutes a day in 2005 to 237 minutes in 2011, and television remains by all measures the catch-all medium.

Although information is a secondary preference among viewers after entertainment, a 2010 survey indicates that newscasts are among the most valued programs. However, the overall volume of television news services is diminishing, and is increasingly confined to the public broadcasters. Recent survey data also suggest that television is perceived as a less credible information source than radio and print. What is more, a dearth of current affairs programs has led to Spanish television being labeled “the champion of news superficiality.”

The technical success of DTT has not been matched by improvements in diversity, a reality underlined by recent consumer survey data. While viewers value improvements in audiovisual quality, they do not recognize any meaningful enhancement of program variety. If anything, this report suggests that intense competition in the DTT sector has encouraged homogenization and prioritized established brand programming. The majority of DTT licensees are incumbent broadcasters or press groups, and the picture has changed little since digital licensing began in 2002, with political allegiances governing the allocation of licenses, especially at the regional and local levels, and market saturation and adverse economic conditions maintaining steep barriers to entry.

The same cannot be said of the internet, which has fostered a proliferation of domestic news and information websites beyond the major news brands, as well as a sharp rise in the use of social media by citizen and professional journalists alike. But these outlets are dominated by opinion-based rather than reporting-based journalism, due primarily to a lack of resources, while the social media news space is still largely the domain of an educated and media-literate minority. In terms of audience share, established news brands have extended their dominance to the online sphere, though effective monetization of traffic remains, in Spain as elsewhere, elusive.

Nevertheless, digital media have enhanced the voice of social minorities and encouraged political pluralism. They have also had a significant impact on civil society, particularly with the rise of digital activism. In 2011, the former president, Rodríguez Zapatero, acknowledged the role of internet-driven protest in delaying and amending a new law governing digital copyright protection. The campaign was also at the heart of a broader democracy-regeneration movement known as “15-M”, after a day of widespread protests mobilized through online and offline social networks on 15 May 2011.

While all major news outlets have embraced digital media in production and delivery, newsrooms have not undergone significant restructure by way of convergence. The working conditions of digital journalists remain distinct from, and considerably inferior to, those of traditional journalists. As their work hours increase, their salaries fall, and there is little union protection. Digitization has also increased demand for cross-category multi-skilled journalists as opposed to field specialists. Under these conditions, it is not surprising that investigative journalism has not benefitted from a post-digitization resurgence, or that online news relies increasingly on wire services and opinion editorials.

The climate of austerity is partly a consequence of the global economic crisis which precipitated a sharp and sustained decline in advertising revenues across print, television, and radio since 2008. Thus, although the audience reach of traditional media platforms has remained stable under digitization, the business of journalism has faced unprecedented turmoil. This has been most acute in the newspaper sector, which lost 27 percent of its revenue between 2005 and 2009. The concomitant failure to capitalize on the exceptional growth in internet advertising has led to the closure of several titles, further eroding any gains in overall news plurality. In television, the flurry of DTT licensing prior to the economic crisis was followed—inevitably—by a period of rapid merger activity and consolidation around the two dominant commercial players (Mediaset and Antena 3).



Against this backdrop, the policy and regulatory framework has been responsive to digitization in certain respects, but inadequate in others. The General Audiovisual Law (2010) has been effective in consolidating legislation and providing new definitions and distinctions, such as between linear and non-linear content. Although it did not establish a converged national regulatory authority for telecommunications and the media, it did envisage an independent national regulator for audiovisual services, which promised to usurp supervision power from the state. As this entity has failed to get off the ground, however, content monitoring and control remains in the hands of the state and the judiciary. This has given added leverage to incumbent commercial lobbyists who have been able to capture licensing policy through political posturing. The scarcity of new entrants and consequent limits to plurality gains is partly a reflection of this. This situation contrasts with the telecoms sector, where an independent national regulator has been effective in limiting both state interference and significant market power.

A flexible policy approach during the build-up to DTT switch-over enabled the Government to adapt to challenges that emerged in each phase of the transition, but it also created some insecurity and inconsistency. A more serious problem stemmed from the decentralized structure of the regulatory framework, which has meant that regional and local authority for audiovisual regulation rests with the country's 17 Autonomous Communities (*Comunidades Autónomas*), while the national government regulates national broadcasters directly.

This has opened a back door to political clientelism with licenses awarded more for political loyalties than public interest. It has also led to an over-licensed DTT market controlled largely by established and incumbent operators, which experts and consumer groups have criticized as unsustainable, inefficient, and unfair. Finally, there has been a transparency deficit, manifest in the absence of public consultation during the development of DTT policy.

Digitization did not initiate or even exacerbate state interference in the media and communications markets. Yet it has increased the potential for such interference, particularly at the regional level, where the authorities have a wider array of regulatory instruments at their disposal compared with the analog era. Their response to the reallocation of frequencies following recent withdrawals, mergers, and takeovers will be critical, for it will determine whether there will be a policy shift towards favoring telecoms companies over commercial broadcasters, or whether competition, plurality, and the public interest will be advanced through the emergence of genuine new entrants.

At national level, government interference is re-emerging at the public service broadcaster, the Spanish Radio and Television Corporation (*Corporación de Radio Televisión Española*, RTVE), as a result of political decisions unrelated to digitization. Arguing for the need to end the RTVE board's vacant presidency and implement harsh spending cuts, the right-wing ruling party, the People's Party (*Partido Popular*, PP) introduced an amendment to the RTVE 2006 Law that enabled the appointment of a president of the RTVE board exclusively with PP votes in the lower house of Parliament. A cascade of newly appointed radio and television directors and editors-in-chief has followed. As a result, an attitude of bitter resentment has spread among the opposition parties, some civil society groups, and individual citizens—quite notably, through the social

media. RTVE has lost its ratings leadership since March 2012. The situation threatens to return Spain to a pre-digitization scenario, where RTVE was singled out by the Council of Europe as an example of political instrumentalization.

This report predicts that mobile internet platforms could broaden access to the diverse news offered online and expand the digital public sphere. This might go some way to offset the plurality deficit caused by consolidation and closures in the print sector. The ongoing development and growth of social media platforms in particular are seen as positive forces that can potentially challenge the dominance of large media conglomerations over the public conversation.

But protection of the public interest and diversity in the new digital mediascape will not flourish of their own accord. To this end, the report calls for the setting up of an independent regulatory authority on audiovisual matters; the effective implementation of self-regulatory codes concerning media and children; a comprehensive policy program involving concerted action by state institutions, universities, and journalism associations/unions to tackle problems of journalists' pay and conditions; the effective implementation of ethical codes and principles to challenge the abusive dominance of opinion and ideological polarization in the media; the setting up by the Government of a radiocommunications agency to handle radio spectrum policy; the delegation of DTT licensing to this radiocommunications agency; improved publicity for public tenders through the approval of a law on transparency and citizens' access to public information; the promotion of media literacy in school curricula; and finally, the protection of RTVE's political and financing independence to ensure the provision of non-partisan and good-quality journalism to Spanish society.

# Context

In the period 2005–2011, Spain's economy was characterized by three years of growth at a level unparalleled in Europe, followed by one of the most dramatic declines since the current financial crisis started in 2008.

Until 2008, Spain's economic success had mostly been based on the construction sector's excessive growth. Its expansion at the end of the 1990s was due to a combination of factors, including unprecedented low interest rates, high demand through increased levels of family indebtedness, a large unskilled workforce, and an economic and fiscal policy aimed at liberalizing access to land and promoting the acquisition of property. Despite the supply of property far exceeding the demand, prices rose disproportionately as a result of speculative transactions.

The 2008 global financial crisis put an abrupt end to this scenario. Gross domestic product (GDP) has been falling since mid-2008, while the annual unemployment rate rose 10 points, from 11.34 percent in 2008 to 21.64 percent in 2011.<sup>1</sup> According to Eurostat figures, in February 2012 Spain had the highest percentage of unemployed workforce in the EU (23.6 percent), which more than doubled for people aged 16–24 (50.5 percent).<sup>2</sup>

As far as policy solutions to the crisis are concerned, the Government's discourse has shifted from an early call to reform capitalism to the need to reduce the government deficit (i.e. the gap between public spending and tax revenue) and debt in line with EU institutions. In 2011, gross debt was 68.5 percent of GDP, still below that of Greece, France or Germany,<sup>3</sup> but the government estimates that it will have risen to nearly 80 percent

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1. Data from the annual Labour Force Survey (*Encuesta de Población Activa*, EPA) by the National Statistics Office (*Instituto Nacional de Estadística*, INE), last updated March 2012.
  2. Eurostat, "Euro area unemployment rate at 10.8%," 2 April 2012, press release, at [http://epp.eurostat.ec.europa.eu/cache/ITY\\_PUBLIC/3-02042012-AP/EN/3-02042012-AP-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-02042012-AP/EN/3-02042012-AP-EN.PDF) (accessed 3 April 2012).
  3. *Cinco Días*, "La deuda pública alcanza ya el 68,5% del PIB, su máximo histórico" (Public debt already reaches 68.5 percent of GDP, its record high), at [http://www.cinco dias.com/articulo/economia/deuda-publica-alcanza-685-pib-maximo-historico/20120316cdscdseco\\_1](http://www.cinco dias.com/articulo/economia/deuda-publica-alcanza-685-pib-maximo-historico/20120316cdscdseco_1) (accessed 6 April 2011)

by the end of 2012.<sup>4</sup> If this is confirmed, debt will have almost doubled over four years. Government deficit has been rated at 8.51 percent of GDP (2011),<sup>5</sup> two and a half points above the figure agreed with the EU economics and finance ministers in May 2010.

Pressed by these pledges, two different Spanish governments—one led by the Spanish Socialist Workers' Party (*Partido Socialista Obrero Español*, PSOE), the other by the Christian Democrats of the People's Party (*Partido Popular*, PP)—have taken the harshest economic decisions in Spanish democratic history. On the one hand, two specific adjustment plans have been approved, the first relying on cuts in public employees' wages and public investments (2010),<sup>6</sup> the second on overall public spending cuts and increases in citizens' yearly income tax (2011).<sup>7</sup> The general budget for 2012 established new spending cuts in government departments, along with more income tax increases for the largest firms and the so-called fiscal amnesty, a pardon of penalties for tax evaders in return for a lowered tax.<sup>8</sup> Public investment in R&D programs has been cut by a quarter, going back to 2005 figures.<sup>9</sup> This, along with cuts in education, puts the political and social will to change Spain's production structure at risk. In April 2012, the government announced two further urgent reforms and cuts in the public educational and health systems.<sup>10</sup> While the latter is still one of the most praised in Europe as regards research and treatment, the dropout rate in secondary schools is twice the EU average (31 percent compared with 14 percent).<sup>11</sup>

Along with the spending cuts and budgetary adjustments, governments have expedited legislative reforms (2010–2012). An article of the Constitution has been amended to force state, regional, and local governments to comply with EU deficit ceilings (2011),<sup>12</sup> and a recently approved Budgetary Stability Law will not allow budgetary deficit in any state-owned companies or any government, except in certain special cases (2012).<sup>13</sup>

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4. *Expansión*, “La deuda pública subirá once puntos en 2012, hasta el 79,8% del PIB” (Public debt will rise 11 points in 2012, up to 79.8% of GDP), at <http://www.expansion.com/2012/04/03/economia/1333447478.html> (accessed 9 April 2011).
  5. *El País*, “Las autonomías disparan el déficit de 2011 por encima de la peor previsión” (Autonomous Communities take the 2011 deficit far above the worst forecast), 27 February 2011, at [http://economia.elpais.com/economia/2012/02/27/actualidad/1330363465\\_191928.html](http://economia.elpais.com/economia/2012/02/27/actualidad/1330363465_191928.html) (accessed 6 April 2011).
  6. Royal Decree-Law 8/2010 on extraordinary measures to reduce the government deficit, *Boletín Oficial del Estado* (BOE) no. 126, 24 May 2010.
  7. Royal Decree-Law 20/2011 on urgent budgetary, tax, and financial measures for the correction of the government deficit, *BOE* no. 315, 31 December 2011.
  8. Government of Spain, “Aprobado el proyecto de ley de presupuestos generales del estado para 2012” (Bill on the 2012 state budget approved), press release, 30 March 2012, at [http://www.lamoncloa.gob.es/ConsejodeMinistros/Referencias/\\_2012/refc20120330.htm#Presupuestos](http://www.lamoncloa.gob.es/ConsejodeMinistros/Referencias/_2012/refc20120330.htm#Presupuestos) (accessed 10 April 2012).
  9. *El País*, “La ciencia retrocede a niveles de hace siete años por el recorte” (Science goes back to levels similar to those of seven years ago due to the spending cuts), 10 April 2012.
  10. *El País*, “Rajoy anuncia el recorte de 10.000 millones en Educación y Sanidad” (Rajoy announces a Health and Education cut of 10,000 million), 9 April 2012, at [http://politica.elpais.com/politica/2012/04/09/actualidad/1333985643\\_619652.html](http://politica.elpais.com/politica/2012/04/09/actualidad/1333985643_619652.html) (accessed 10 April 2012).
  11. European Commission, “Commission launches action plan to reduce early school leaving,” press release, Brussels, 31 January 2011, at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/109&format=HTML&aged=0&language=EN&guiLanguage=fr> (accessed 18 February 2011).
  12. Amendment to Art. 135 of the Spanish Constitution, *BOE* no. 233, 27 September 2011, at <http://www.boe.es/boe/dias/2011/09/27/pdfs/BOE-A-2011-15210.pdf> (accessed 1 May 2012).
  13. Law 2/2012 on Budgetary Stability and Financial Sustainability, *BOE* no. 103, 30 April 2012, at <http://boe.es/boe/dias/2012/04/30/pdfs/BOE-A-2012-5730.pdf> (accessed 1 May 2012).

Financial regulation has been updated to facilitate mergers between companies (2010) and the provision of public and private funds for banks to cover the risk of default after the housing bubble burst (2012).<sup>14</sup> Also, the legal retirement age will be raised gradually from 65 to 67 (between September 2012 and 2027). But the two labor reforms (2010 and 2012) have been the more controversial.<sup>15</sup> The latter, currently in force, substantially reduces redundancy costs and makes it easier for companies to resort to collective lay-offs. As a result of these policies, social protest has risen, in the form of a series of street demonstrations, an emergent social movement (15-M), and three general strikes between 2010 and November 2012.

In spite of these austerity measures, the Government finally asked for a banking bailout in June 2012.<sup>16</sup> However, the banking bailout conditions will be set at the end of the year by the EU, and the possibility of a second, more general bailout for the whole economy looms over the country in the second half of 2012.

Along with the rest of the economy, the media—especially the print media—are undergoing one of their most severe crises, following a decline in advertising revenue and the need to adapt to the digital world. Since 2009, broadcast media takeovers and mergers have been made easier by reducing restrictions on ownership and introducing audience thresholds applicable only at the point of the merger. Online-only editions are both proliferating and disappearing in an unstable scenario. These reorganizations have added more uncertainty to an already precarious and overcrowded labor market: massive lay-offs have been common in the media sector since 2009—the most recent, resonant ones entailed by the October 2012 redundancy plan of *El País*, Spain's chief newspaper of record, born with the transition from Francoist dictatorship to democracy.

In the midst of this crisis, all terrestrial television channels went digital by law (3 April 2010), two years before the EU's switch-off deadline. The technical process was quick and smooth and it has been considered a success, even if some future spectrum adjustments will be needed. As a consequence, the number of available nationwide free-to-air (FTA) television channels has increased from six to about 30 over the past two years. However, from an economic point of view, the crisis of advertising revenue seems to have rendered this new digital scenario totally unsustainable.<sup>17</sup>

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14. Royal Decree-Law 11/2010 on governing bodies and other aspects of the savings banks' legal regime, *BOE* no. 169, 13 July 2010, at <http://www.boe.es/boe/dias/2010/07/13/pdfs/BOE-A-2010-11086.pdf> (accessed 1 May 2012); Royal Decree-Law 2/2012 on the rationalization of the financial system, *BOE* no. 30, 4 February 2012, at <http://www.boe.es/boe/dias/2012/02/04/pdfs/BOE-A-2012-1674.pdf> (accessed 1 May 2012).

15. Royal Decree-Law 10/2010 on urgent measures to reform the labor market, *BOE* no. 147, 17 June 2010, at <http://www.boe.es/boe/dias/2010/06/17/pdfs/BOE-A-2010-9542.pdf> (accessed 1 May 2012); Royal Decree-Law 3/2012 on urgent measures to reform the labor market, *BOE* no. 36, 11 February 2012, at <http://www.boe.es/boe/dias/2012/02/11/pdfs/BOE-A-2012-2076.pdf> (accessed 1 May 2012).

16. *The Guardian*, "Q&A on Spain's banking bailout," 11 June 2012, at <http://www.guardian.co.uk/business/2012/jun/11/question-answer-spain-banking-bailout> (accessed 8 August 2012).

17. J. Villanueva, J. Irisarri, E. Campos, F. Baz, *La TDT: ¿un negocio imposible?* (DTT: an impossible business?), Deusto, Barcelona, 2008 (hereafter Villanueva et al., *La TDT: ¿un negocio imposible?*).

Despite the growing popularity of social media, especially among young people, the majority of the viewing audience remains faithful to television as the main entertainment and news source, and the level of its consumption has actually increased. At the same time, Spain has the second-highest mobile broadband and smartphone penetration levels in the EU after Italy: market research indicates that 52.5 percent of people owned one such device as of January 2012.<sup>18</sup>

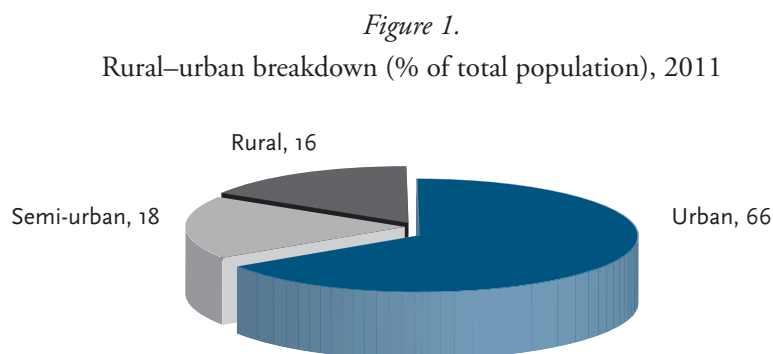
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18. Comscore, “Number of European Smartphone Users Accessing News Surges 74 Percent Over Past Year,” press release, 22 March 2012, at [http://www.comscore.com/Press\\_Events/Press\\_Releases/2012/3/Number\\_of\\_European\\_Smartphone\\_Users\\_Accessing\\_News\\_Surges\\_74\\_Percent\\_Over\\_Past\\_Year](http://www.comscore.com/Press_Events/Press_Releases/2012/3/Number_of_European_Smartphone_Users_Accessing_News_Surges_74_Percent_Over_Past_Year) (accessed 10 May 2012) (hereafter Comscore, “Number of European Smartphone Users”).

# Social Indicators

Population: 47.15 million (2010)<sup>19</sup>

Households: 15.30 million (2010)<sup>20</sup>

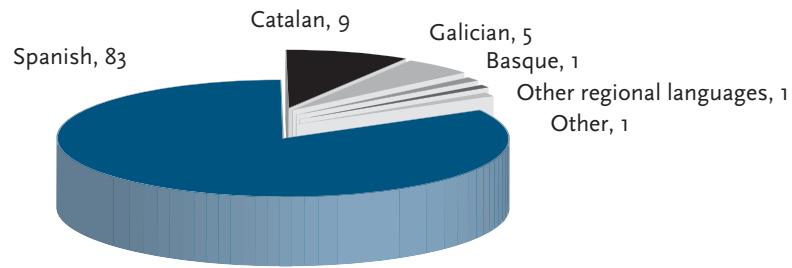


*Source:* Censo de Población y Viviendas 2001 (Households and Population Census 2001), National Statistics Office (*Instituto Nacional de Estadística*, INE), 2002

19. Instituto Nacional de Estadística (National Statistics Office, INE), “Padrón municipal: población total, miles)” (Municipal register of inhabitants: total population, thousands), at <http://www.ine.es/jaxi/menu.do?type=pcaxis&path=%2Ft20%2Fe245&file=inebase&L=0> (accessed 30 March 2011).

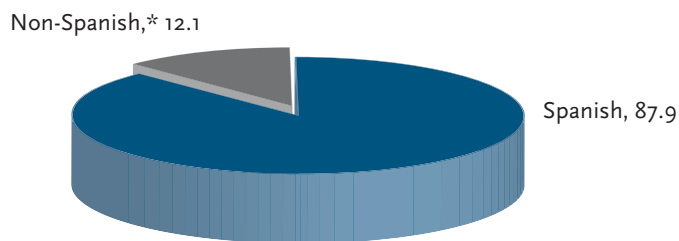
20. INE, “Encuesta sobre Equipamiento y Uso de Tecnologías de la Información y Comunicación en los hogares 2010” (Survey on Equipment and Use of ICTs in Spanish households 2010), at <http://www.ine.es/jaxi/tabla.do?path=/t25/p450/a2010/10/&file=01001.px&type=pcaxis&L=0> (accessed 30 March 2012) (hereafter INE, “Encuesta sobre equipamiento y uso de las TICs 2010”).

*Figure 2.*  
Linguistic composition (% of total population), 2006



*Source:* European Commission, “Europeans and their languages,” Special Eurobarometer, no. 243, 2006, p. 7, at [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_243\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_243_en.pdf) (accessed 31 January 2010)

*Figure 3.*  
National composition (% of total population), 2012

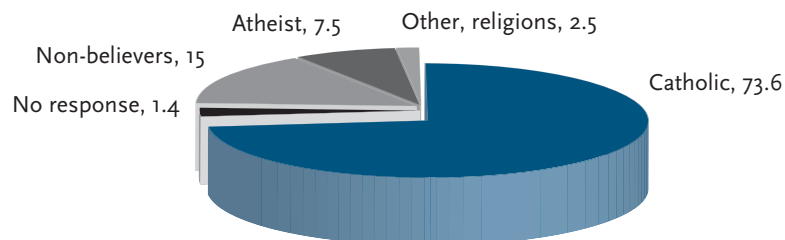


*Note:* This figure reflects, in its title and data, the usage of “nation” that is adopted in article 2 of the Spanish Constitution (viz. “the indissoluble unity of the Spanish nation, the common and indivisible homeland of all Spaniards”). The Spanish political order also recognizes three historic “nationalities”: Catalonia, the Basque Country, and Galicia.

\* The largest non-Spanish groups are Romanians (15.7 percent), Moroccans (13.7 percent), UK citizens (7 percent), and Ecuadorians (5.4 percent). By regions, EU citizens form 42.7 percent of the non-Spanish population, South Americans form 22.6 percent, and 19.1 percent are from Africa.

*Source:* INE, “Avance de la Explotación estadística del Padrón a 1 de enero de 2012” (Advanced Statistical Analysis of the Census as of 1 January 2012), at <http://www.ine.es/prensa/np710.pdf> (accessed 30 April 2012)

*Figure 4.*  
Religious composition (% of total population), 2010



*Source:* Center for Sociological Investigations (*Centro de Investigaciones Sociológicas*, CIS), “Barómetro de Diciembre” (December Barometer), Study No. 2856, December 2010, p. 19, at [http://www.cis.es/cis/opencms/-Archivos/Marginales/2840\\_2859/2856/es2856.pdf](http://www.cis.es/cis/opencms/-Archivos/Marginales/2840_2859/2856/es2856.pdf) (accessed 3 February 2011)



# Economic Indicators

Table 1.  
Economic indicators

	2005	2006	2007	2008	2009	2010	2011	2012
GDP (current prices), in US\$ billion	1,132.13	1,235.92	1,444.02	1,601.41	1,467.89	1,409.94	1,536.47 <sup>f</sup>	1,575.11 <sup>f</sup>
GDP (current prices), per head in US\$	26,305	28,244	32,468	35,364	32,030	30,639	33,297 <sup>f</sup>	34,050 <sup>f</sup>
Gross National Income (GNI), per head, current \$	26,990	29,810	31,490	32,270	31,520	31,640	n/a	n/a
Unemployment (% of total labor force)	9.2	8.5	8.3	11.3	18.0	20.1	21.6	19.7 <sup>f</sup>
Inflation (average annual rate in % against previous year)	3.4	3.6	2.8	4.1	-0.2	3.0	2.4	1.4 <sup>f</sup>

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

Sources: International Monetary Fund, *World Economic Outlook Database*, September 2011 (GDP, GDP per head, inflation, and unemployment rate); INE (average yearly net income, average inflation rate in 2010 and 2011, average unemployment rate in 2011)

# 1. Media Consumption: The Digital Factor

## 1.1 Digital Take-up

### 1.1.1 Digital Equipment

There appear to be two distinct trends in the ownership of digital equipment. Whereas digital television sets and personal computers continue to grow in popularity, digital radio sets have been largely unsuccessful.

Digital media content is available in Spanish households mainly through television sets and personal computers. Not only are these omnipresent or increasingly part of the family media ecosystem (see Table 2): they have also been supported by specific policy programs since the end of 2005. That year, under a government led by the social democratic *PSOE*, the date of 3 April 2010 was fixed by law as the definite date for analog television switch-off. (On government plans to subsidize reception equipment for certain sectors of the population, see section 7.1.1.2.)

Table 2.  
Households owning media equipment, 2005–2010

	2005		2006		2007		2008		2009		2010	
	No. of HH* ('000)	% of THH**	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH
TV sets	15,441	99.3	14,541	99.6	14,619	99.5	15,035	99.7	15,254	99.6	15,303	99.5
Radio sets	13,580	87.4	12,994	89.0	12,885	87.7	12,969	86.0	12,941	84.5	12,549	82.0
PCs***	8,060	51.8	8,526	58.4	8,874	60.4	9,591	63.6	10,154	66.3	10,513	68.7

Notes: \* Total number of households owning the equipment

\*\* Percentage of total number of households in the country

\*\*\* Includes households with any kind of computer: home PC, laptop, or other

Source: INE, “Encuesta sobre equipamiento y uso de las TICs 2010”

According to Impulsa TDT data, between 2005 and 2009 25.6 million DTT receivers were sold either as external set-top boxes or appliances with integrated tuners, e.g. television sets, DVD recorders, USB data cards (the latter constituting the majority).<sup>21</sup> Expectations were also high for 2010, since by March another 3 million receivers had been sold.<sup>22</sup> Finally, 5.3 million digital TV digital sets were sold in 2010 and 4.06 million in 2011, of which 400,000 had 3D, while 1.4 million were HBB (Hybrid Broadcast Broadband) TV.<sup>23</sup>

Radio digital sets, as already mentioned, have not been so successful. This can be partly explained by competition from the internet and the rise in the number of DTT platforms, along with the failure of digital terrestrial radio stations to attract significant audiences. Both media policy and market behavior can account for this failure. The EU DAB standard, adopted in 1999, demands the replacement of existing frequencies and receivers at a high cost in an already overcrowded market. In Spain, unlike in most of Western Europe, private and public stations have traditionally coexisted at national and local levels. Alternative standards (such as Digital Radio Mondiale, DRM) have appeared, but have not yet taken off. Besides, where there is no stimulus, there is no demand: no publicity has been set up and consumers have hardly heard of digital radio sets. Other factors are the high cost of receivers and some technical reception problems encountered by the early adopters.<sup>24</sup> As a further attempt to revitalize digital radio, the General Law on Audiovisual Communication (LGCA) 2010 forces the Government to present, before November 2011, a technical plan for the transition from any frequency to digital-only radio.<sup>25</sup> Presented in July 2011, this Digitization Plan included:

- 1) The modification of the Terrestrial Sound Broadcasting Technical Plan (1999) to preserve the continuity of the current digital terrestrial radio broadcasting services. The actual licensees are granted more flexibility. More specifically, the principle of technological neutrality is adopted to enable them to switch from DAB to DAB+. Moreover, their coverage obligations are reduced from 50 to 20 percent of the population. This implies a cost reduction to the detriment—or indeed the virtual disappearance—of digital radio in Spain, outside Madrid and Barcelona.
- 2) The drafting of a study on the possible redistribution of programs in each of the current multiplexes. This may lead to mergers between digital radio operators.
- 3) The development of promotional activities aimed at the general population.
- 4) The implementation of pilot tests to assess the technical viability of the digitization of AM and FM broadcasts with DRM/DRM+ technologies.

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21. Impulsa TDT, *TDT. Informe Final 2010* (DTT. Final Report 2010), Madrid, 2010, p. 74 (hereafter Impulsa TDT, *Informe Final 2010*).

22. Impulsa TDT, *Informe Final 2010*, p. 82.

23. AMETIC, *Informe Anual 2011* (2011 Annual Report), AMETIC, Madrid, 2012, pp. 24–25. Available at [http://www.ametic.es/download/documents/MEMORIA%20AMETIC\\_2011\\_FINAL.pdf](http://www.ametic.es/download/documents/MEMORIA%20AMETIC_2011_FINAL.pdf) (accessed 18 October 2012)

24. On the failure of digital terrestrial radio in Spain, see R. Franquet, “La radio digital en España: incertidumbres tecnológicas y amenazas al pluralismo” (Spanish digital radio: technology uncertainties and pluralism threats), Fundación Alternativas, Madrid, 2008; M. Bonet, M. Corominas, I. Fernández, and M. Díez, “Keys to the failure of DAB in Spain,” *Journal of Radio and Audio Media* 16(1) 2009, pp. 83–101.

25. General Law 7/2010 on Audiovisual Communication (hereafter LGCA 2010), *BOE* no. 79, 1 April 2010, transitory provision 15.

- 5) The drafting of a study on necessary conditions and requirements to establish a deadline for analog radio switch-off.<sup>26</sup>

With regard to public preferences, the television set remains central to media consumption, as revealed by both market research and opinion polls. In 2009, 4.7 million television sets were sold, nearly half of all DTT equipment sold that year.<sup>27</sup> A continuous decline in prices has helped. Television online consumption is still weak in general terms, however: according to a May 2010 survey by the CIS, six out of 10 people have never watched television online.<sup>28</sup>

Regardless of platform, television also remains the catch-all medium. The viewing public turns it on first for entertainment, and second for information.<sup>29</sup> Despite this, viewers say that newscasts are their favorite programs.<sup>30</sup> Indeed, television is the only medium that most people turn to on a daily basis for information (75 percent<sup>31</sup>), and in the last five years, television has invariably been the preferred way to consume political news stories.<sup>32</sup> This is true in spite of television being regarded as less credible than the radio or the print press, according to a 2011 report by the Ortega-Marañón Foundation.<sup>33</sup>

The profile of the internet user in Spain can be analyzed through the 2005–2010 surveys by the INE.<sup>34</sup> Users prefer to connect to the internet at home (home access has grown from 65 percent to 85 percent of the total), but increasingly through broadband mobile phones: the number of people using a 3G terminal access has almost doubled in three years (10.5 percent in 2007 compared with 20.3 percent in 2010). These results fit with the figures suggesting that Spain is one of Europe’s leaders in smartphone penetration: the market research company Comscore states that nearly five out of 10 people own one such device.<sup>35</sup>

### 1.1.2 Platforms

The last five years have witnessed three interconnected trends in Spanish households’ preferred television platforms.

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26. Resolution of 13 July 2011 by the Secretary of State for Telecommunications and for the Information Society, publishing the Agreement passed by the Council of Ministers on 10 June 2011 approving the digitization plan for terrestrial sound broadcasting service. *BOE* n° 179, 27 July 2011.

27. Impulsa TDT, *Informe Final 2010*, pp. 77–78.

28. CIS, “Barómetro de Mayo” (May Barometer), Study No. 2836, May 2010, p. 21, at [http://www.cis.es/cis/opencms/-Archivos/Marginales/2820\\_2839/2836/es2836.pdf](http://www.cis.es/cis/opencms/-Archivos/Marginales/2820_2839/2836/es2836.pdf) (accessed 28 February 2011) (hereafter CIS, “Barómetro de Mayo”).

29. CIS, “Barómetro de Mayo,” p. 16.

30. CIS, “Barómetro de Mayo,” p. 15.

31. CIS, “Barómetro de Mayo,” p. 18.

32. Several 2005–2010 CIS political opinion polls have been analyzed with regard to the question of “frequency of use of different media to get political and social news”: CIS Studies Nos. 2842 (2010), 2802 (2009), 2760, 2749 (2008), 2726 (2007), 2642 (2006), 2588 (2005).

33. J.J. Toharia (coord.), *Pulso de España 2010* (Spain’s Pulse 2010), Fundación Ortega-Marañón and Biblioteca Nueva, Madrid, 2011.

34. INE, “Encuesta sobre equipamiento y uso de las TICs 2010.”

35. Comscore, “Number of European Smartphone Users.”

The first trend is the increase in DTT penetration, with a final two-year surge as the official switch-off deadline approached (Table 3). Interestingly, the economic downturn has not affected this adversely. The INE and the industry's Association for Media Research (*Asociación para la Investigación de Medios de Comunicación*, AIMC), responsible for the widely respected General Media Survey (*Estudio General de Medios*, EGM), both concur with this finding. INE's 2010 penetration figure was 90 percent in 2010,<sup>36</sup> whereas AIMC stated that 93 percent of Spanish households owned a DTT-ready set in 2010 and 97 percent in 2011.<sup>37</sup>

The number of DTT channels on offer in Spain is one of the highest in Europe. As of March 2011, there were 1,180 according to the European Audiovisual Observatory, compared with 1,222 in the UK and 1,059 in Italy.<sup>38</sup>

Table 3.  
Platform for the main TV reception and digital take-up, 2006–2010\*

	2006		2007		2008		2009		2010	
	No. of HH** ('000)	% of THH***	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH
Terrestrial reception	11,014	70*	15,963	100	16,161	100	16,683	100	16,802	100
– of which digital	n/a	n/a	2,075	13	4,074	25.2	6,951	41.1	12,884	76.6
Cable reception	2,187	13.9	2,598	16.2	2,975	18.4	2,786	16.7	2,768	16.4
– of which digital	n/a	n/a	1,949	12.2	2,359	14.6	2,681	16.0	2,674	15.9
Satellite reception	2,895	18.4	2,987	18.7	3,068	18.9	3,134	18.5	2,740	16.3
– of which digital	n/a	n/a	1,551	9.7	1,566	9.6	1,650	9.8	1,503	8.9
IPTV	n/a	n/a	314	1.9	503	3.1	647	3.8	813	4.8
– of which digital	n/a	n/a	314	1.9	503	3.1	647	3.8	813	4.8
Total	15,734	100	15,963	100	16,161	100	16,683	100	16,802	100
– of which digital	n/a	n/a	5,605	35.1	7,871	48.7	10,545	63.2	15,032	89.4

Notes: n/a: not available

\* The figures refer to the main TV set in multi-TV households.

\*\* Percentage of total number of households in the country.

\*\*\* Percentage of total number of TV households.

Source: Médiamétrie Eurodata TV Worldwide, based on data from surveys by TNS-Kantar Media

36. INE, "Encuesta sobre equipamiento y uso de las TICs 2010."

37. AIMC, *Marco General de los Medios en España 2012* (General Media Framework in Spain 2012), Madrid, 2012, p. 64 (hereafter AIMC, *Marco General de los Medios en España 2012*).

38. European Audiovisual Observatory, "The European Digital Television market continues to be dynamic: more platforms, channels and HD," press release, Strasbourg, 28 March 2011, at [http://www.obs.coe.int/about/oea/pr/mavise\\_mars2011.html](http://www.obs.coe.int/about/oea/pr/mavise_mars2011.html) (accessed 21 August 2012). In August 2012, the Observatory's database, Mavise, provided an overall figure of 969 state-wide channels operating in Spain on all types of platforms and exploitation regimes: DTT, cable, satellite, FTA, pay-TV. These, however, included a number of simulcast HD channels replicating SD channels' schedules. See <http://mavise.obs.coe.int/welcome> (accessed 21 August 2012).

The second trend is a slight decrease in pay-TV subscriptions, both via satellite and cable (see Table 3). Since 2008, their presence has been weaker, as households have embraced the DTT multi-channel offer. This is in line with a general fall in pay-TV revenues.<sup>39</sup>

The third trend is a sustained, slight increase in the growth of internet protocol television (IPTV) despite the economic downturn. This can be attributed to its newness in a market that is not yet saturated. Here, the dominant player is Telefónica, with its Imagenio brand commanding 17.2 percent of Spanish pay-TV subscribers and 12 percent of the pay-TV market revenues in 2010.<sup>40</sup>

Finally, almost all the Spanish population using the internet has fixed broadband connections (see Table 4). It is mobile broadband that has experienced the most dramatic rise in recent years. According to Eurostat, Spain had the sixth-highest mobile internet penetration rate (via the Universal Mobile Telecommunications System, UMTS) in 2010.<sup>41</sup>

Table 4.

Internet penetration rate (total internet subscriptions as % of total population)  
and mobile penetration rate (total active SIM cards as % of total population), 2005–2011

	2005	2006	2007	2008	2009	2010	2011
Fixed internet	36	39	45	51	54	59	64
– of which broadband	58.3	74.4	86.7	88.2	94.4	96.6	96.9
Mobile telephony	96.7	102.1	107.1	107.5	109.2	109.7	n/a
– of which 3G	n/a	n/a	n/a	44.2	52.1	58.9	n/a

Note: n/a: not available

Sources: Data for internet from: *Level of Internet Access and Households and Type of connection to the Internet. Broadband*; data for mobile telephony from: Telecommunications Market Commission (CMT), *Informe anual 2010* (based on lines per 100 inhabitants)

However, both fixed and mobile broadband are still expensive. According to the Telecommunications Market Commission (*Comisión del Mercado de las Telecomunicaciones*, CMT), the best prices for combined fixed broadband and telephony packages at medium speed levels in 2010 were on average 37.5 percent higher than similar packages in the rest of the EU.<sup>42</sup> Mobile broadband in general also remains expensive. The UK's

39. Telecommunications Market Commission (CMT), *Informe anual 2010* (Annual Report 2010), 2010, p. 361 (hereafter CMT, *Informe anual 2010*).

40. CMT, *Informe anual 2010*, p. 366.

41. Eurostat, "Individuals using a mobile phone via UMTS (3G) to access the internet," at [http://epp.eurostat.ec.europa.eu/portal/page/portal/product\\_details/dataset?p\\_product\\_code=TIN00117](http://epp.eurostat.ec.europa.eu/portal/page/portal/product_details/dataset?p_product_code=TIN00117) (accessed 15 May 2012). The first five countries were Iceland (23 percent), Luxemburg (20 percent), Sweden (20 percent), Norway (19 percent), Denmark (15 percent), and the Netherlands (15 percent).

42. CMT, "Comparativa Internacional de ofertas comerciales de banda ancha en la Unión Europea y España" (Commercial Broadband Offers in the EU and Spain; an International Comparison), December 2010, p. 8, at [http://www.cmt.es/c/document\\_library/get\\_file?uuid=945757ae-f829-46d5-9b7e-99e034e58fc5&groupId=10138](http://www.cmt.es/c/document_library/get_file?uuid=945757ae-f829-46d5-9b7e-99e034e58fc5&groupId=10138) (accessed 28 May 2012).

regulator Ofcom singles out Spain as having the highest European prices for all 1, 3, and 5 GB speeds.<sup>43</sup> On the other hand, mobile phone tariffs remain low and are indeed falling.<sup>44</sup>

## 1.2 Media Preferences

### 1.2.1 Main Shifts in News Consumption

The main development in recent years has been the rapid increase in internet use. More than half the population now surfs the web regularly, compared with less than one-third in 2005 (see Figure 5). However, Spaniards use the internet mainly for communicating and researching information on products and services. This notwithstanding, reading press news stories online is more and more popular as internet activity. In 2009, 50 percent of Spanish citizens who had used the internet in the last three months had read or downloaded online newspapers or current-event magazines. By 2011, this number was 67.2 percent. Simultaneously, in 2009 print readership fell below 40 percent for the first time since 2005.<sup>45</sup> Nevertheless, there is still insufficient empirical evidence to determine how much of the decline in newspaper readership is due to online migration.<sup>46</sup>

Online news consumption via mobile phones is increasing. Comscore's data for November 2011 to January 2012 showed that 10.3 percent of Spaniards with a smartphone (52.5 percent of the total population) accessed news through their mobile handsets almost every day. This proportion is low compared with other Western European countries. However, the Spanish smartphone audience reported the strongest gains between 2010 and 2012, with a 160 percent increase in near-daily news access.

The broadcast media, meanwhile, maintain a stable penetration, and in the case of television, this appears to be benefitting from the economic crisis as a cheaper medium. Nearly nine out of 10 people watch television daily (see Figure 5), and according to Kantar Media's peplemeters, in 2011 viewers watched an average of 3 hours and 59 minutes a day, an unprecedentedly high figure.<sup>47</sup> Radio has stabilized at around half of the television audience rate, and is less favored for everyday information. In 2010, only 15.7 percent of Spaniards chose it as their first option for news, after television (46.2 percent), newspapers (18.8 percent), and the internet (16 percent).<sup>48</sup> As in the case of the print press, the most important challenge it faces regarding audiences is its inability to engage adolescents.<sup>49</sup>

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43. Ofcom, *International Communications Market Report 2010*, London, 2 December 2010, p. 85, at [http://stakeholders.ofcom.org.uk/binaries/research/cmr/753567/icmr/ICMR\\_2010.pdf](http://stakeholders.ofcom.org.uk/binaries/research/cmr/753567/icmr/ICMR_2010.pdf) (accessed 10 October 2012).

44. *El País*, "El precio de las llamadas de móvil disminuyó un 9 % en 2010" (Mobile phone calls fell 9 percent in 2010), 1 April 2011 at [http://www.elpais.com/articulo/economia/precio/llamadas/movil/disminuyo/2010/elpepueco/20110401elpepueco\\_4/Tes](http://www.elpais.com/articulo/economia/precio/llamadas/movil/disminuyo/2010/elpepueco/20110401elpepueco_4/Tes) (accessed 1 April 2011).

45. INE, "Encuesta sobre equipamiento y uso de las TICs 2010."

46. Interview with Manuel Sala, director of the online press audience measurement agency *OJDi*, Barcelona, 12 February 2011.

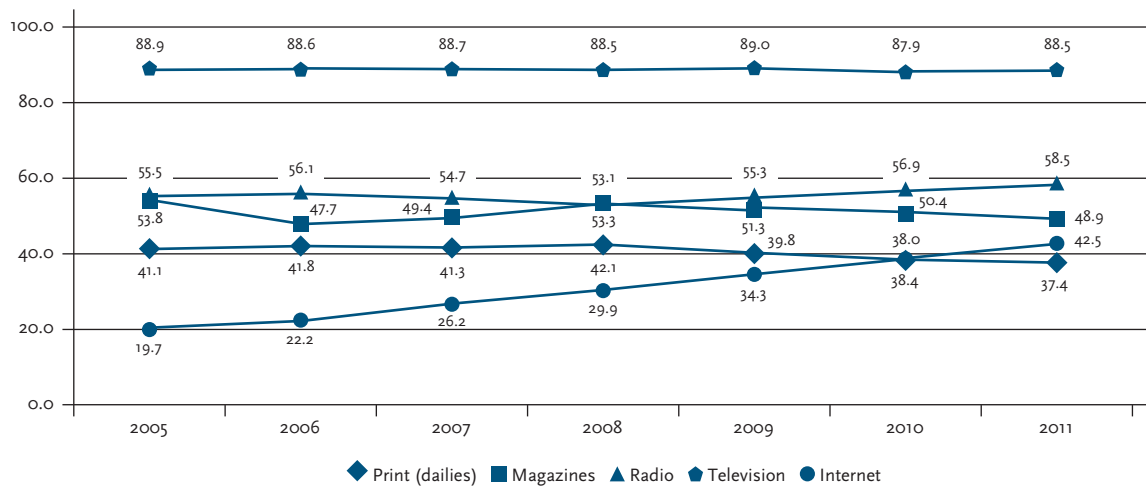
47. Barlovento Comunicación, "Análisis televisivo 2011" (Television Analysis 2011), p. 10, at [http://www.barloventocomunicacion.es/images/publicaciones/ANALISIS\\_TELEVISIVO\\_2011\[2\].pdf](http://www.barloventocomunicacion.es/images/publicaciones/ANALISIS_TELEVISIVO_2011[2].pdf) (accessed 15 May 2012) (hereafter Barlovento Comunicación, "Análisis Televisivo 2011").

48. CIS, "Barómetro de Mayo," 2010, p. 6.

49. J.M<sup>a</sup>. Martí, X. Ribes, M. Gutiérrez, L. Martínez and B. Monclús, "Apunts sobre la recerca la ràdio i els joves. Problemàtica actual i tendències de futur" (Research notes on radio and young people. Present problems and future trends), in J.M<sup>a</sup>. Martí and B. Monclús (coords), *Informe 2009 sobre la ràdio a Catalunya* (2009 report on Catalonia's radio), Observatori de la ràdio a Catalunya-Servei de Publicacions de la UAB, Barcelona, 2010, pp. 86–98, at [http://www.l-obsradio.org/files/informe\\_radio\\_09.pdf](http://www.l-obsradio.org/files/informe_radio_09.pdf) (accessed 30 March 2011).

Figure 5.

Media use (% of population over 14 years old), 2005–2011



Note: Print (dailies), radio, television, and internet refer to daily use. Magazines data refer to weekly or monthly use.

Sources: INE; AIMC, *Marco general de los medios en España 2012*, Madrid, p. 11

### 1.2.2 Availability of a Diverse Range of News Platforms

Media consumption has not changed since 2005 such as to influence the availability of a diverse range of news platforms. The sole exception is the internet, with, however, some qualifications. It is true that online news dailies have proliferated, but their sustainability is still uncertain. The Association of Spanish Daily Newspapers' Publishers (*Asociación de Editores de Diarios Españoles*, AEDE) registered 59 digital dailies in 2009, the same number as in 2007, following a surge (76 dailies) in 2008.<sup>50</sup> However, in addition to increased audience interest in online reading, other factors might also account for this variation, for example, the overwhelming annual number of graduate journalists unable to find a job in an already overcrowded labor market or the low cost of internet start-ups.

With respect to DTT, information and news are increasingly confined to public broadcasters, and are diminishing overall. This is not due to audience attitudes, for research data show that television is still the most important news source. Private licensees mostly concentrate on entertainment and drama,<sup>51</sup> depending on long-established brands at a time of economic crisis and an oversupply of DTT channels.

50. Association of Spanish Daily Newspapers' Publishers (*Asociación de Editores de Diarios Españoles*), *Libro Blanco de la prensa diaria 2010* (Daily Press White paper), AEDE, Madrid, 2011 (hereafter AEDE, *Libro Blanco de la prensa diaria 2010*).

51. Barlovento Comunicación, "Análisis Televisivo 2011," p. 22.



## 1.3. News Providers

### 1.3.1 Leading Sources of News

#### Television

The public broadcaster, RTVE, has led audience share rankings since 2009 through its general-interest television channel La 1, followed closely by Telecinco and Antena 3 (see Figure 6). Telecinco belongs to the Spanish division of Mediaset, owned by the Italian Silvio Berlusconi. It has lost the long-standing audience leadership that it had maintained since 2005. As previously mentioned, it is committed to entertainment content and indeed devoted nearly half of its schedule to this in 2011 (49.6 percent).<sup>52</sup>

Respondents to CIS have identified Telecinco's schedule as the most entertaining (17.9 percent), closely followed by La Sexta (15.2 percent) and Antena 3 (14.3 percent).<sup>53</sup> Antena 3 is the main general-interest channel of the media group Grupo Antena 3, with Planeta as the main stakeholder. Planeta is one of the largest Spanish communication conglomerates, having its origin and core business in the book publishing sector. Antena 3's schedule balances entertainment, information, and drama,<sup>54</sup> and—like Telecinco—tends towards a sensationalist news topic selection and treatment. During the last five years, these two channels have competed fiercely against each other on prime-time celebrity programs.

There are, in addition, 13 regional public broadcasters, owned and managed by administrative regional entities. They are associated within the Regional Radio and Television Organizations' Federation (*Federación de Organismos de Radio y Televisión Autonómicos*, FORTA). They almost parallel Antena 3 in their annual, nationwide average audience share. In some regions with their own distinct national identities, such as Catalonia, they are major sources of news.

PRISA's Cuatro, launched in 2005, is the fifth general-interest channel in terms of audience share. Two trends should be noted: it has overtaken RTVE's La 2, which now almost behaves like a minority channel specializing in cultural content (see section 2). And, after consolidating a schedule based on high-quality international drama for adult urban audiences (drama made up almost 38 percent of its schedule in 2010),<sup>55</sup> it has been absorbed by Telecinco. Mr Berlusconi's company has repositioned Cuatro in its DTT portfolio for a young and adolescent market.

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52. Barlovento Comunicación, "Análisis Televisivo 2011," p. 22.

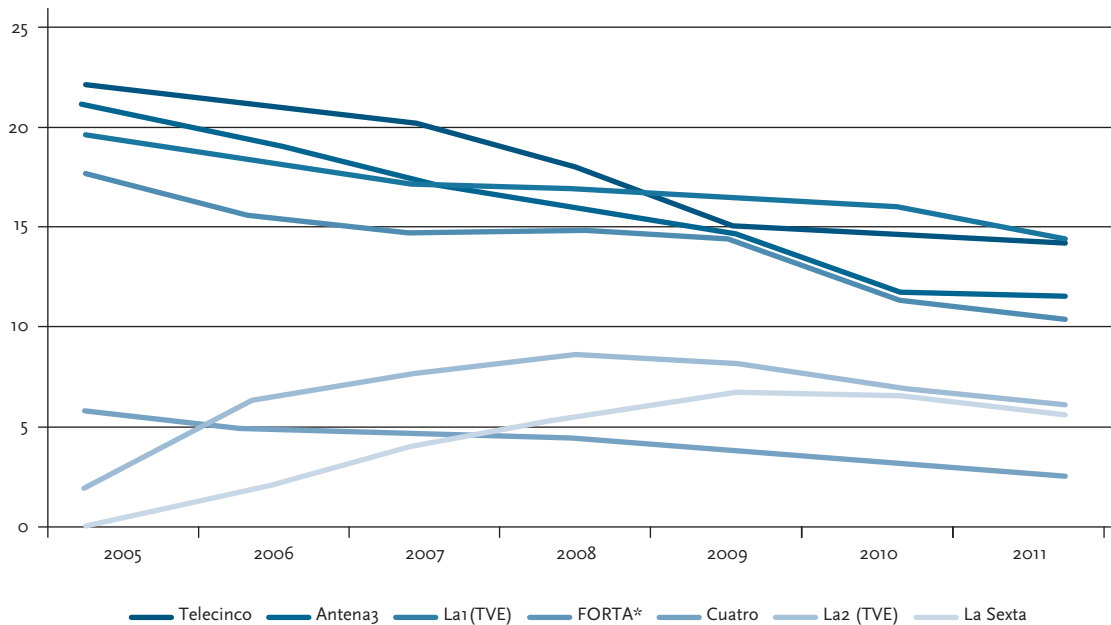
53. CIS, "Barómetro de Mayo," 2010, p. 12.

54. Barlovento Comunicación, "Análisis Televisivo 2011," p. 22.

55. Barlovento Comunicación, "Análisis Televisivo 2011," p. 23.

Figure 6.

TV outlets' ranking by annual average audience share (%), 2005–2011



Note: \* FORTA represents the public regional broadcasters

Sources: Kantar Media data cited in CMT, *Informe anual 2009* (Annual Report 2009), 2009; Barlovento Comunicación, “Análisis Televisivo 2011.”

As Figure 6 shows, the Spanish television market has become more pluralized in recent years as individual audience shares have declined. This audience fragmentation may be attributed, first, to the emergence of two new broadcasters, in 2005 (Cuatro) and 2006 (La Sexta), and second, to the multiplication of digital channels after analog switch-over in 2010. This two-stage process has been acknowledged by television consultants (see section 1.3.2).<sup>56</sup>

## Radio

Spanish radio audience rankings present at least three consolidated trends: the significance of private licensees, the high concentration of the market, and the popularity of thematic music stations.

Private players control both state-wide and regional markets. Spanish National Radio (*Radio Nacional de España*, RNE), the main RTVE general-interest radio channel, only ranks fourth in the talk radio audience ratings (see Figure 7). However, 10.3 percent of Spaniards choose it as their preferred station to listen to radio news, and since 2009 RNE has experienced the highest increase in audience share. In specific local markets, regional public broadcasters have led the audience ratings, as in the Catalan case (Catalunya Ràdio has a

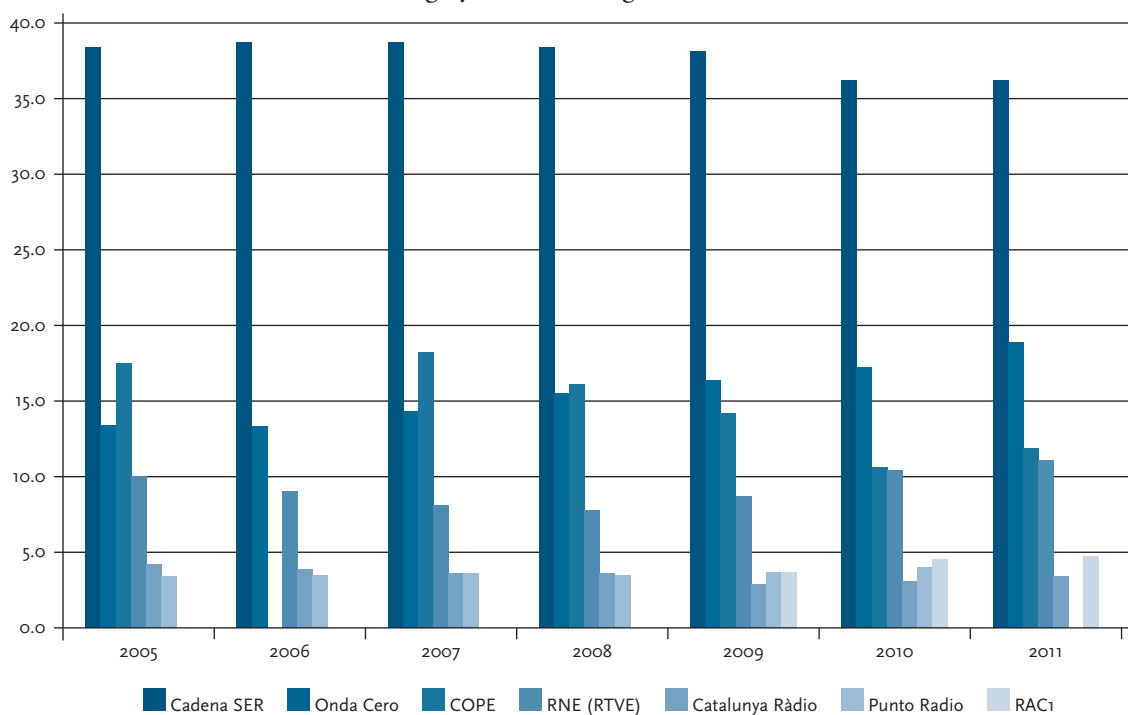
56. Barlovento Comunicación, “Análisis Televisivo 2011,” p. 11; E. Prado and M. Delgado, “La televisión generalista en la era digital. Tendencias internacionales de programación” (Generalist TV in the Digital Era: International Programming Trends), *Telos*, no. 84, July–September 2010, at [http://sociedadinformacion.fundacion.telefonica.com/seccion=1268&idioma=es\\_ES&id=2010083011290001&activo=6.do](http://sociedadinformacion.fundacion.telefonica.com/seccion=1268&idioma=es_ES&id=2010083011290001&activo=6.do) (accessed 10 March 2011) (hereafter Prado and Delgado, “La televisión generalista en la era digital”).

7.9 percent reach),<sup>57</sup> but even in Catalonia most recent figures show that some commercial regional radio networks, for example RAC 1, are providing strong competition.

Nevertheless, the market overall is highly concentrated. Radio station networks belonging to big nationwide media groups dominate. This follows a consolidation path started in the 1980s.<sup>58</sup> Among these groups, PRISA exercises absolute hegemony in audience reach: three of its brands are in the top five station rankings. The other state-wide media group present in the ranking is Grupo Antena 3, owning the Onda Cero stations network. With a steady increase in audience, it has succeeded in becoming the second-ranked talk radio station in terms of audience reach and share. This has relegated the private Catholic radio network, People's Radiowaves of Spain Network (*Cadena de Ondas Populares Españolas*, COPE), to third place, closely followed by the public RNE. According to the April 2010 CIS barometer, one-third of listeners prefer Cadena SER (owned by Unión Radio, itself controlled by PRISA) for listening to radio news. Onda Cero is chosen by 14.3 percent of those who listen to radio news, RNE by 10.3 percent, and COPE by 7.7 percent.<sup>59</sup>

Figure 7.

Talk radio stations' ranking by annual average audience share (%), 2005–2011



Source: AIMC, *Marco general de los medios en España 2012*, p. 34

57. Fundación de la Comunicación y la Cultura (FUNDACC), *Baròmetre de la Comunicació i la Cultura. 6a onada 2010* (Communication and Culture Barometer), January 2011, p. 43.

58. R. Franquet, *La radio digital en España: incertidumbres tecnológicas y amenazas al pluralismo* (Spanish digital radio: technology uncertainty and pluralism threats), Fundación Alternativas, Madrid, 2008.

59. CIS, "Barómetro de abril" (April Barometer), Study no. 2834, 2010, p. 9 (hereafter CIS, "Barómetro de abril").

Thematic music radio broadcasting remains strong, and its reach is in some cases higher than talk radio. PRISA's Cadena 40, set up in 1966, has been a social phenomenon among the young and has expanded into other areas, such as the DTT market, credit cards, and the promotion of musical theatre shows.

## Print

*El País* tops the daily newspaper circulation ranking. In the April 2010 CIS barometer, 16.3 percent of respondents chose this title as their preferred newspaper information source—twice as many as preferred *El Mundo* at 8.6 percent). The Barcelona newspaper *La Vanguardia*, was third, followed by *El Periodico* with 4.1 percent and another national newspaper, *ABC*, with 3.8 percent.<sup>60</sup>

*El País* is owned by PRISA, a group owned by the founding family, and Liberty, a hedge fund company recently incorporated to PRISA due to the latter's financial problems. *El Mundo*, established in 1989, belongs to Unidad Editorial, which is in turn controlled by the publisher of *Corriere della Sera*, the Italian media group RCS. Ideologically, *El Mundo* leans towards center-right liberalism. The sports daily *Marca*, the third paper in the circulation ranking, is also included in Unidad Editorial and RCS's portfolios. In the last five years, *Marca* has competed for sports readers with PRISA's *As*, but the latter always holds second position. Both titles are evidence of the importance of sports dailies in the Spanish print market.

The picture of paid newspaper circulation is completed with the traditionally monarchist and rightist broadsheet *ABC*, founded in 1903 and now owned by the Vocento media group, the product of the 2002 merger of two publishers with origins in the early 20th century, *ABC's* Prensa Española and the Basque Grupo Correo, both strong in regional dailies. Another historic title is the Catalan, liberal right-leaning *La Vanguardia*, founded in 1881 by the former paper publisher and now multimedia company Grupo Godó.

A final word has to be said about free daily sheets. Their appearance in the 1990s has had an important impact: *20 minutos*, owned by the Norwegian media group Schibsted, had an average circulation of 702,518 in 2010, whereas Grupo Zeta's *Qué!*, offering a more entertaining news treatment, had an average circulation of 619,129, far higher than the circulation figures of the paid newspapers (see Figure 8). From a local and regional perspective, they give prominence to consumer issues, transportation, housing, local politics, sports, television, and the cultural agenda.<sup>61</sup>

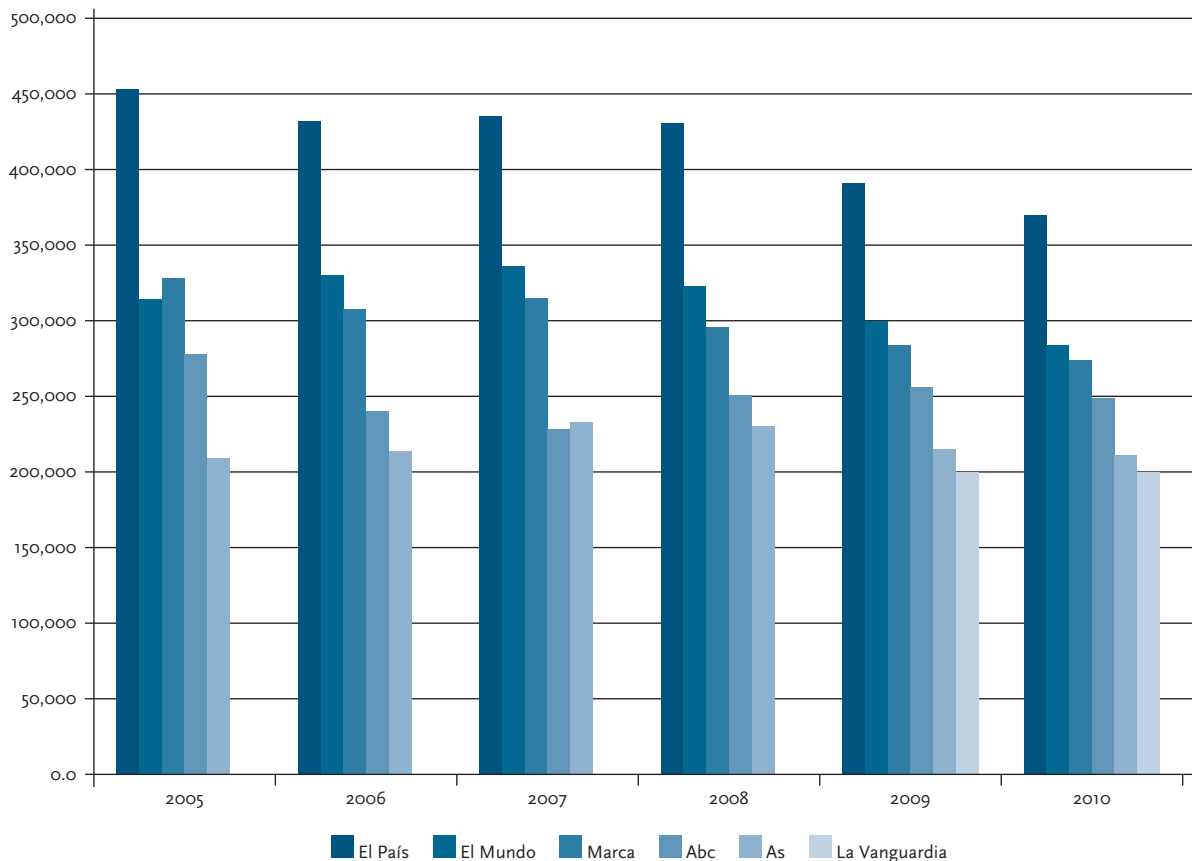
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60. CIS, "Barómetro de abril," p. 10.

61. M.T. Santos, *El auge de la prensa gratuita en España* (The growth of the free press in Spain), UPV/EHV, Bilbao, 2007; Circulation Audit Bureau (*Oficina de Justificación de la Difusión*, OJD), "Detalle de la publicación" (Publication details), March 2011, at <http://www.ojd.es> (accessed 10 March 2011).

Figure 8.

Ranking of daily (paid) newspapers by circulation, 2005–2010



Sources: AEDE, *Libro Blanco de la prensa diaria 2010*, Madrid, 2009, based on data from the Circulation Audit Bureau (*Oficina de Justificación de la Difusión*, OJD)

## Online

It is difficult to identify trends in news websites' audiences due to the lack of agreement among industry players over which online audience measurement methods are most appropriate.<sup>62</sup> For instance, since 2005 PRISA's websites (Elpais.com, Cadenaser.com) have not been audited by the industry organization, the Interactive Circulation Audit Bureau (*Oficina de Justificación de la Difusión interactiva*, OJD*i*), which supervises more than 450 sites. However, PRISA has recently asked to be reincorporated in the audit. Likewise, El mundo.es is not included in AIMC's EGM survey, based on more than 30,000 yearly interviews. Moreover, in 2009, OJD*i*, which uses a census-based method, adopted a Nielsen tool that does not correct the deletion of cookies.

This situation may change if the industry finally accepts a new Nielsen Online hybrid method, combining panel and census and using EGM's sample universe. Nielsen has chosen Spain to apply it for the first time

62. See *El País*, "La nueva OJD digital desata la polémica entre los grandes medios" (The new digital OJD unleashes controversy among big media), 13 March 2009, at [http://www.elpais.com/articulo/sociedad/nueva/OJD/digital/desata/polemica/grandes/medios/elpepisoc/20090313elpepisoc\\_7/Tes](http://www.elpais.com/articulo/sociedad/nueva/OJD/digital/desata/polemica/grandes/medios/elpepisoc/20090313elpepisoc_7/Tes) (accessed 10 March 2011); Europa Press, "España, pionera en la medición híbrida de audiencias online" (Spain, a pioneer in a hybrid online audience system), 5 March 2011, at <http://www.europapress.es/portaltic/internet/noticia-espana-pionera-medicion-hibrida-audiencias-online-20110305080009.html> (accessed 15 March 2011).

and issued its first results in January 2011 (see Table 5). Google News is not included in these results, however. Therefore, audience data from Google AdPlanner are shown (Table 6). The situation is further complicated by media outlets' habit of publishing total monthly figures for unique users, for marketing purposes, despite OJDi insisting on numbers of daily average unique users as the best tool to measure and compare sites' audience impact.<sup>63</sup>

*Table 5.*  
Online news media audience ranking, hybrid method (panel + census), January 2011

Rank	Media outlet/URL	Monthly unique users (million)
1	Elmundo.es	5.6
2	Rtve.es	4.3
3	Abc.es	3.4
4	Telecinco.es	3.2
5	Antena3.com	2.9
	2ominutos.es	2.9
6	Laverdad.es	1.8
7	Elperiodico.com	1.5
	Europapress.com	1.5
	Es.noticias.yahoo.com	1.5
	Cuatro.com	1.5
8	Que.es	1.4
9	Publico.es	1.3
10	LibertadDigital.com	1.1

Source: Compiled from Nielsen Online/Ión Comunicación data

*Table 6.*  
Online news media audience ranking, January 2011

Rank	Media outlet/URL	Monthly unique users (million)
1	Marca.com	6.9
2	As.com	5.6
3	Elmundo.es	5.6
4	Elpais.com	5.0
5	Rtve.es	4.2
6	Telecinco.es	3.1
7	Antena3.com	2.6
8	Abc.es	2.4
9	Sport.es	2.1
10	2ominutos.es	2.0

Source: Google AdPlanner

63. Interview with Manuel Sala, director of the online press audience measurement agency OJDi, Barcelona, 12 February 2011.

The most visited news media sites seem to replicate the market shares of publishers and broadcasters offline. They include the national sport paper *Marca*; quality newspapers such as *El Mundo*, *El País*, *ABC*, and *20 minutos*; and among broadcast media, *Telecinco.es*, *Antena3.es*, and *Rtve.es*, the last being the leader among broadcasters in both tables. Nielsen’s hybrid measurement in Table 5 includes some regional leaders such as *La Verdad*. Other sites worthy of note on Nielsen’s table are third-party news aggregators or portals offering a wide range of content and services, including reworked, third-party, or self-produced hard and soft news (MSN, Yahoo or *Terra.es*).

### 1.3.2 Television News Programs

One third of the Spanish audience chooses the public broadcaster channel La 1 as their preferred television news source (34.9 percent).<sup>64</sup> La 1 is followed by commercial channels Antena 3 (20.4 percent) and Telecinco (9.4 percent).

In the period 2005–2011, the top five prime-time newscasts on nationwide television were those belonging to the former analog operators, and these are dominated by long-established public and private licensees, that is, operating before 2005. According to Kantar people-metering, RTVE’s La 1 has been the prime-time news leader since 2007, and this accords with people’s preferences according to sociological surveys. The private channels Telecinco and Antena 3 have repositioned themselves in second and third places, respectively (see Table 7).

Table 7.

Prime-time news on state-wide television, audience share rankings (%), 2005–2011

2005		2006		2007		2008		2009		2010		2011	
Antena 3	24.2	Antena 3	22.4	La 1	20.2	La 1	19.3	La 1	18.3	La 1	17.5	La 1	18.1
La 1	22.5	La 1	20.8	Antena 3	20	Telecinco	18.2	Telecinco	16.7	Telecinco	13.1	Telecinco	13.1
Telecinco	18.2	Telecinco	17.4	Telecinco	17.4	Antena 3	17	Antena 3	14.6	Antena 3	12	Antena 3	12.6
La 2	5.7	Cuatro	5.4	Cuatro	6.4	Cuatro	6.8	La Sexta	6.8	La Sexta	6.7	La Sexta	6.1
Cuatro	5.5	La 2	4.9	La 2	3.8	La Sexta	4.7	Cuatro	6.2	Cuatro	4.4	Cuatro	6.2

Source: Barlovento Comunicación, based on Kantar Media data

This picture does not mention regional public broadcasters. In the last five years, some of their prime-time newscasts have been audience leaders in their respective territories, especially in those regions with their own language other than Spanish. This is the case with the Basque channel ETB2 or Catalan TV3, with the latter’s share never falling below 20 percent.

Different measurement tools show a decrease in audience numbers for all operators’ prime-time newscasts. Given that overall television viewing remains buoyant, the decline in audience shares could be attributed to DTT audience fragmentation rather than the possible impact of online news media.

64. CIS, “Barómetro de Mayo,” 2010, p. 36.

### 1.3.3 Impact of Digital Media on Good-quality News

The most read, viewed, and heard digital news content is provided by traditional, long-established players, except for one operator, LibertadDigital.es (see Table 5). New DTT entrants are not really competing on news production, but mainly on television entertainment and drama. In the case of online-only media, new entrants are competing on opinion (see section 4).

However, some news websites committed to more serious journalism have emerged online. They are usually the result of the exploitation of new online platforms by independent journalists. Periodismohumano.com, for example, was set up in 2010 by the Pulitzer prize winner Javier Bauluz. Perhaps the most interesting was the shortlived Soitu.es. This site was launched in December 2007 and very soon had half a million unique visitors a month and another 2 million users monthly through its third-party widgets. Despite its new approach to an online journalism with an important social dimension, the site closed after just 22 months, in October 2009, following a decision by its main financial backer and principal shareholder, the Spanish bank BBVA.<sup>65</sup>

There is a debate about the contribution of social media to good-quality news. Online media editors acknowledge that social media can enhance research if they are used properly (see section 4). However, everyday experience shows that journalists are still sceptical, especially in large, long-established corporations like RTVE.<sup>66</sup> The Conference on Digital Journalism (Huesca, 10–13 March 2011) awarded web investigative reporting prizes on the basis of traditional professional standards, while some expert digital journalists attending the meeting questioned why good journalism has to be identified with serious reporting as opposed to the superficial immediacy of social media.

In terms of public perception of how DTT has affected overall quality (not only of news), the evidence is mixed. The majority of survey respondents point to an improvement in sound and image quality (almost 61 percent), but there is less agreement about greater program variety (46 percent believe this, against 43 percent who see no change). As for content quality, the finding is clear: 58 percent of people believe there has been no improvement.<sup>67</sup>

## 1.4 Assessments

Digitization has multiplied the DTT channels and online media outlets in Spain, as it has elsewhere. The digital signal production, compression, and transmission, and the regulatory changes needed to keep up with them have the potential to increase diversity through quantity. But digitization includes a social process

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65. L. Bennet, "Soitu.es couldn't find the business model to match its content creativity," *Nieman Journalism Lab*, 5 March 2010, at <http://www.niemanlab.org/2010/03/soitu-es-couldnt-find-the-business-model-to-match-its-content-creativity> (accessed 15 May 2012).

66. Telephone interview with David Varona, social media manager and journalist at RTVE.es, 20 February 2011.

67. CIS, "Barómetro de abril," p. 17.



which is more complex, with other factors having definite limiting effects on content diversity and quality. These include the following points.

- Path dependency in licensing. Spanish DTT licensees have remained unchanged since 2002, the majority of them being long-established broadcasters. DTT has not started from scratch.
- Audience concentration in online news outlets and economic difficulties for new entrants. Online media outlets have proliferated, but those leading audience rankings belong to consolidated media groups. Newly created digital online outlets suffer from a lack of resources and branding. Some are testing new sources of revenue.
- Overcrowded DTT market. Commentators, critical scholars, and media groups alike acknowledge that there is little room for distinct local players to survive in such a saturated market, with so many state-wide digital channels on offer.
- Content homogenization and news marginalization. Content analysis confirms that mainstream genres (entertainment and fiction) are repeated across television platforms.<sup>68</sup> Information genres are only prominent in public broadcasters. Moreover, they are not necessarily profound: the Euromonitor International European TV Observatory, based in Barcelona, has labeled Spanish television as “the champion of news superficiality” because of its preference for newscasts to the detriment of such genres as debates, interviews, and documentaries.<sup>69</sup>
- News production. Online outlets are not truly competing on news-making due to the above-mentioned lack of resources (see section 4).

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68. Barlovento Comunicación, “Análisis Televisivo 2011,” p. 22; Prado and Delgado, “La televisión generalista en la era digital.”

69. E. Prado & M. Delgado, “Tendencias internacionales en programación” (International Trends in Programming), *Telos*, no. 84. July-September 2010.

## 2. Digital Media and Public or State-administered Broadcasters

### 2.1 Public Service and State Institutions

Spain's public service media system is complex and heterogeneous. An easy way to reduce the complexity is to see it as mirroring the country's decentralized political structure. Spanish state executive power is made up of three layers: local, regional, and state-run authorities.

The state-owned RTVE is the largest, country-wide public service broadcaster with its headquarters in Madrid. At the regional level, however, there are another 13 state-owned public service broadcasters, covering some of the 17 Autonomous Communities, the territorial and administrative entities that were established when Spain's democratic Constitution was adopted in 1978 (see section 1.1.2). Most of these broadcasters are strongly criticized by the private media industry and the political right for misuse and abuse of public funding.<sup>70</sup> This controversy runs parallel to the broader debate concerning the sustainability of the Autonomous Communities in the current financial crisis.<sup>71</sup>

In addition to formal public service broadcasters, a number of regional private broadcasters which emerged following the transition to democracy adopted a public service, not-for-profit model. Although most have now been integrated into commercial conglomerates, the community-based third sector (TS) media remains relatively strong; these outlets were legally defined for the first time under the LGCA 2010. However, other than providing recognition, the LGCA 2010 does not establish clear enforcement measures, and a technical plan for its protection and development is pending. This is regarded as insufficient by the Community Media State Network (*Red Estatal de Medios Comunitarios*, ReMC), which includes 30 media organizations: radio, television, and multimedia services. With unprofessional programming mainly centered on issues such as immigration, cultural and political pluralism, and media education, the impact of TS media as public service

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70. See *El País* editorial, "Públicas y carísimas" (Public and very expensive), 17 November 2010, at [http://www.elpais.com/articulo/opinion/Publicas/carisimas/elpepiopi/20101117elpepiopi\\_1/Tes?](http://www.elpais.com/articulo/opinion/Publicas/carisimas/elpepiopi/20101117elpepiopi_1/Tes?) (accessed 24 November 2010).

71. See *El Mundo*, "Jáuregui plantea que las comunidades valoren si deben tener televisión pública" (Jáuregui proposes that Communities assess whether they must have public service television), 18 January 2011, at <http://www.elmundo.es/elmundo/2011/01/18/espana/1295343550.html> (accessed 12 February 2012).

providers in quantitative audience terms is marginal. According to the ReMC, however, their continuing existence, despite the legal and economic deterrents, proves that they meet a social need.<sup>72</sup>

The portrait of public service media in Spain has to be completed with the state-owned news agency, EFE. Built on a previous news-making undertaking, EFE was founded in 1939 by Franco's brother-in-law, the fascist politician Ramón Serrano Súñer, and Manuel Aznar, the grandfather of the former Spanish prime minister (1996–2004), the conservative José María Aznar. It now claims to be the fourth biggest news agency in the world, with 2,000 clients all round the globe.<sup>73</sup> However, the change in government in 2011 along with the ongoing economic crisis has affected the agency, with cuts translating into redundancies and wage reductions.

RTVE comprises radio (RNE), television (TVE), and associated web and interactive services. The corporation underwent far-reaching reform after the social democratic PSOE party's return to government in 2004. The goals of the reform were to eliminate an unsustainable debt; to end the tradition of blatant manipulation by all three parties that have held office since the restoration of democracy; and to respond to the EU's state aid requirements on funding for public broadcasters, thereby including proportionality in funding in order to allow free market competition to function unimpeded. However, the change of government in November 2011 and the financial crisis are undermining the legal, funding, and content reform of RTVE.

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

DTT switch-over was completed in April 2010. TVE maintains the two traditional general-interest channels, La 1 and La 2 (first broadcast in 1956 and 1965, respectively). La 1 leads the television news output. According to Kantar, 47.9 percent of its program schedule was devoted to information content in its various formats in 2011. This was nearly 28 points above the average (20.2 percent) of the current six general channels. For La 2, however, news and current affairs output was just 2.6 percent of its total schedule, and half of what it was a year earlier.<sup>74</sup> Although formally a general-interest channel, it also performs as a home for cultural content.

Some unions have criticized the historic lack of a clear-cut strategy for the channel, and blamed an excessive focus on highbrow cultural content for marginalizing La 2. La 1's daily news programs rank first in the public's preferences; 35 percent of the people surveyed watched them, according to the CIS special barometer (May 2010). This was 14 percentage points ahead of the immediate follower, the commercial broadcaster Antena 3.<sup>75</sup> As of July 2012, peplemetering research continues to register La 1 news audience leadership, uninterrupted since September 2007.<sup>76</sup>

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72. Interview with Laura Bergés, ReMC network's spokesperson, Barcelona (Bellaterra), 20 December 2010.

73. See <http://www.efe.com/efe/queeseefe/presentacion/english/4> (accessed 12 September 2012).

74. Barlovento Comunicación, "Análisis televisivo 2011," p. 22.

75. CIS, "Barómetro de Mayo," 2010, pp. 18–19.

76. Audience data are an average of the two main news broadcasts, at 3 p.m. and 9 p.m. See Barlovento Comunicación, Press note, Audiencias TV Julio 2012, at <http://www.barloventocomunicacion.com/blog/15-audiencia-mensual/45-audiencias-tv-julio-2012.html> (accessed 10 August 2012).

The TVE news and current affairs output includes the whole schedule of the 24-hour news channel Canal 24 Horas (broadcast in a cable platform since 1997), with a 0.8 percent average audience share in 2010. The channel is currently the only 24-hour news channel in Spain, after the closure of CNN+ in December 2010. The TVE channel portfolio is completed with TVE Internacional, which broadcasts a general-interest program schedule for the Spanish diaspora population in the Americas, Europe, Asia, and Africa. Finally, the TVE-HD channel focusses on football and drama in high definition (HD) and does not broadcast news.

RTVE runs six radio channels: the general-interest network RNE, the thematic music and culture channel Radio 3, news-only Radio 5, Radio 4 (for Catalonia), Radio Clásica (classical music), and Radio Exterior (for international listeners, broadcasting in English, Russian, French, Arabic, Portuguese, and Ladino, along with Spanish). Among these, only Radio 5 is a 24-hour news channel, but RNE and Radio 4 offer considerable news output. Unlike the RTVE television channels, the RTVE public radio stations are behind the commercial competitors in terms of audience share. RNE was the fourth talk-radio network in Spain in 2011 (see Figure 7), but in May 2012 it moved up to third position.<sup>77</sup>

### 2.1.2 Digitization and Services

Along with La 1, La 2, Canal 24 Horas, TVE Internacional, and TVE-HD, TVE owns two other digital thematic channels: the sports channel Teledeporte (since 1994, it went digital in 1997 through a satellite platform) and the children's channel Clan. Both of these went into DTT in 2005. The RTVE radio channels broadcast in an analog platform, in DTT, through the internet, and also in DAB and DRM formats. Radio's complete analog switch-off date is still uncertain in Spain, as elsewhere in Europe (see section 1.1.1).

Regarding online operations, prior to 2007 RTVE.es was outdated in comparison with other public regional broadcasters, such as the Catalan Broadcasting Corporation (*Corporació Catalana de Mitjans Audiovisuals*, CCMA). Its website included little more than program schedules. As shown in Table 5, in 2011 RTVE was in second position among the Spanish online media audience. The key for its success was the transfer of management know-how through the appointment of experienced digital editors from the commercial media. This has been carried out since 2006, under the RTVE law on state-owned radio and television<sup>78</sup> (RTVE Law 17/2006). RTVE created a specific interactive division, iRTVE, with clear objectives and means. It triggered a radical improvement. The website RTVE.es includes television and radio channels and programs by way of streaming and podcast, along with the digitized historical archive. It has also rapidly got involved in social media: the site hosts several online communities (fora) and 125 blogs (November 2010), the highest number in Europe, according to one expert.<sup>79</sup>

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77. Data can be downloaded from the AIMC at <http://www.aimc.es/-Datos-EGM-Resumen-General-.html> (accessed 9 August 2012).

78. Law 17/2006 on state-owned radio and television services, *BOE* no. 134, 6 June 2006 (hereafter Law 17/2006).

79. José A. García Avilés, Professor of Journalism Studies at Universidad Miguel Hernández, Elche, in the forum "Transformar la TV. Otra Televisión es posible" (Transforming TV, Another TV is possible) held in Madrid, 18 November 2010.

David Varona, RTVE's social media and participation manager, says that RTVE has at least 50 Facebook accounts, 35 Twitter profiles, five Tuenti accounts (the successful Spanish social network site with 8 million users), and a pilot presence in Sigojoven.com, a Spanish social network for the over-40s.<sup>80</sup> There is also a channel on YouTube and La Villa, the first sport social network in Spain. Finally, it is developing some apps for Google Android, Apple's iPhone, and Sony's PlayStation. The changes have been revolutionary and, as a result, the website is currently among the top three broadcast media internet portals, with nearly 11,114,000 unique users in June 2012 (after Telecinco.es), according to OJD. RTVE.es is also the website where users spend the most time (nearly 37 minutes per day on average).<sup>81</sup>

### 2.1.3 Government Support

Social democratic governments (led by the PSOE) shaped media policy in Spain from 2004 to 2011. The government allocated two digital multiplexes (eight channels) to RTVE in 2005, which meant multiplying its capacity fourfold. There was a commitment to a free and open DTT led by the public, state-wide broadcaster (see section 5.1.1). Consistent with this, the RTVE Law 17/2006, passed by a consensus in Parliament, gave RTVE the special task of fostering the information society as part of its public service broadcasting duties. The corporation must "participate in the technological progress" through new technologies and services, aiming to "complete its program schedules and bring the state authorities closer to the citizens."<sup>82</sup>

But this mission had to be fulfilled with shrinking resources. In order to ensure financing, a rationalization plan allowed the state to absorb RTVE's galloping debt (almost €8,000 million) and a new corporate structure was created in 2007: RTVE Corporation (Corporación RTVE). It was followed by massive lay-offs, affecting 4,150 out of nearly 10,000 employees.

As a result, RTVE's Annual Review 2009 emphasized the "strongly rejuvenated and reduced staff."<sup>83</sup> The corporation has not provided access to any in-house qualitative audience studies. In the absence of an alternative source, it is not possible to confirm or discount the effects of staff reduction, equipment digitization, and the ensuing new organizational routines on perceived product quality and audience engagement. So far, situations and perceptions vary across different regional production centers.

Workers in the Canary Islands, for instance, have had to adapt to longer working days and split shifts. Catalan editors, whose production center was digitized between 2008 and 2010, state that they do not think their public service commitment has been eroded as the result of the combination of digitization and employment cuts. On the contrary, they say, digitized content ingestion and management systems have brought about a faster and more rational exploitation of resources.<sup>84</sup>

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80. Telephone interview with David Varona, social media manager and journalist at RTVE.es, 20 February 2011.

81. Data are available at <http://www.ojdinteractiva.es/ultimos-medios-auditados.php#> (accessed 10 August 2012). The categories "entertainment" and "broadcast" have to be selected to single out only broadcast media websites.

82. Law 17/2006, Art. 3.3.

83. Radiotelevisión Española (RTVE), *Annual Review 2009*.

84. Interview with Rafael Lara, TVE Catalunya News Deputy Editor, and Adriana Monclús, Digital Coordinator, Sant Cugat, 28 March 2011.

RTVE's 2006 new legal and regulatory framework for the digital era did not endanger editorial independence. On the contrary, it effectively promoted it until very recently, as RTVE news staff repeatedly acknowledged.<sup>85</sup> With the new law, board members were elected by Parliament for the first time, and, what is more, with a mandatory and ample cross-party majority (two-thirds of votes were legally required). The board's membership was to comprise 10 media professionals proposed by parties according to their representation in the two houses, along with two others proposed by the main unions. RTVE's president was held accountable by his or her board and by Parliament, where previously he or she was appointed by and accountable to the government only.

In addition, two self-regulatory news councils, representing professional journalists in RNE and TVE, have been put in place, and a "right of access", that is, a 1978 constitutional provision guaranteeing program representation for the most significant social groups, has been finally implemented.

All these reforms notwithstanding, the actual regulatory implementation and the latest amendments to the law by the new PP government have threatened RTVE's journalistic independence. Three examples illustrate this. In September 2011, a majority of the board approved an initiative that there should be direct access to the computer system used by editors in order to know in advance the texts and topics of newscasts. This initiative was submitted by a member who had been proposed by the PP, but only the representatives of one union, the General Workers Union (*Unión General de Trabajadores*, UGT), and the leftist coalition, United Left (*Izquierda Unida*, IU) opposed it. The decision was reversed only two days later, thanks to resistance by news management and also broader social uproar, mainly funneled through Twitter.

More problematic was the president's resignation in July 2011 and the inability of the lower chamber, the Congress, to elect a replacement. Alberto Oliart, a former government minister elected with broad parliamentary support, resigned following the board's decision to sign a contract with Telefónica Broadcast Services (TBS), a subsidiary of Telefónica telecoms company, to transport the signal of a TVE breakfast show. Mr Oliart's son was the sole managing partner of TBS. The president said he was resigning for health reasons (he was 82), but the press cast doubt on his version. The two signal transport operators that had competed in the public tender, Overon and TBS, are the sole players, along with Abertis, operating nationwide in the highly concentrated signal transport market. Overon had been in charge of the service prior to the tender. The board argued that the budget proposed by TBS was lower and, hence, better.<sup>86</sup>

Finally, the most serious challenge to RTVE's professional independence was the decree to amend the RTVE 17/2006 Law, approved by Parliament in April 2012. Arguing the necessity of ending the vacant presidency

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85. See J. Retis, M.L. Graván, A. García Matilla, *Los informativos diarios en BBC y RTVE* (Daily newscasts in BBC and RTVE), Ediciones de la Torre, Madrid, 2010 (hereafter Retis, Graván, García Matilla, *Los informativos en BBC y RTVE*). Apart from this published research on TVE news staff's perceptions of RTVE's actual performance, workers and some unions have claimed to see the end of the political manipulation of news production.

86. See CMT's annual report (2010), at <http://informecmt.cmt.es> (accessed 12 November 2012). For an interpretation from the press, see, e.g., *El País*, "El Consejo de Administración de RTVE assume la dirección tras la división de Oliart" (RTVE's board assumes direction after Oliart's resignation), at [http://sociedad.elpais.com/sociedad/2011/07/06/actualidad/1309903201\\_850215.html](http://sociedad.elpais.com/sociedad/2011/07/06/actualidad/1309903201_850215.html) (accessed 9 April 2012).

and implementing harsh spending cuts, this decree has changed the law's provisions on the number, status, and appointment of board members. The two posts reserved for the main Spanish unions have been eliminated, leaving a reduced board of 10 members proposed by Parliament, which only needs an absolute majority if a two-thirds vote is not achieved in a first vote.

In June 2012, new board members, including the president, were elected on a second vote after 24 hours in their respective houses of parliament and by an absolute majority (currently in the possession of the PP). The new president was a high-ranking government employee during the previous PP administration (2000–2004). A cascade of newly appointed radio and television directors and editors-in-chief followed between 29 June and 3 August 2012; no fewer than 21 were noted by the authors of this report, covering all management and editorial posts. Most of them had held managerial responsibilities in RTVE during the previous PP administration. The sequence of appointments must also be emphasized: RTVE's new president replaced TVE's news director the same day that he was confirmed by the board members' vote (29 June), almost a full month before the TVE director-general (24 July).

Along with these management posts, there have been seven dismissals in news programs' editors and presenters who had a consolidated or rising audience: two in the main RNE magazines and five at TVE. Most of them have won several prizes, and the dismissed TVE news director received unprecedented long applause from his staff on the day of his farewell.<sup>87</sup>

Government intervention in RTVE's funding may also have risked the corporation's future market competitiveness. When advertising was eliminated as a source of revenue in 2010 (see section 6.2.1), the market was left entirely to private players. A new law promoted by the PSOE government replaced this revenue with direct state budgetary subsidies and new levies on private broadcasters' and telecoms' turnover: a charge of 0.9 percent on the gross revenues of telecoms operators, 3 percent on national broadcasting operators, and 1.5 percent on subscription television operators.<sup>88</sup> However, in March 2011 the European Commission referred the levy on telecoms to the European Court of Justice, on the grounds that it does not conform to the EU's telecoms regulatory framework; more specifically, the imposition of such levies on telecoms is acceptable only to finance charges derived from the sector's regulation. As of November 2012, the case is still in progress.<sup>89</sup> Furthermore, the telecoms companies have repeatedly rejected this levy and appealed to the Spanish telecoms regulator, CMT.

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87. Recent prizes received by TVE include the New York Festival's World's Best Television and Films competition and the Iris, awarded by the Spanish Television Academy: see *Elmundo.es*, "TVE triunfa en Nueva York" (TVE triumphs in New York), 18 April 2012, at <http://www.elmundo.es/elmundo/2012/04/18/television/1334746011.html> (accessed 13 August 2012); *ABC.es*, "TVE arrasa en la gala de los Premios Iris de la Academia de televisión" (TVE sweeps the Spanish TV Academy Iris Prizes' show), at <http://www.abc.es/20120705/tv/abci-academia-premios-201207050037.html> (accessed 13 August 2012).

88. Law 8/2009 on the Financing of RTVE Corporation, *BOE* no. 210, 31 August 2009, Art. 2.

89. European Commission, "Digital Agenda: Commission refers France and Spain to Court over 'telecoms taxes'," press release, Brussels, 14 March 2011, at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/309&format=HTML&aged=0&language=EN&guiLanguage=en> (accessed 30 March 2011). The case (C-468/11, Commission vs Spain) is still pending, as the European Court of Justice shows on its website, at <http://curia.europa.eu/juris> (accessed 13 August 2012).

In July 2012, the RTVE board president presented the corporation's yearly accounts for 2011, revealing a €29 million deficit. In total, Spain's broadcasters and telecoms operators still owe €60 million.<sup>90</sup> Nevertheless, the deficit had been cut by nearly 40 percent on the previous year. Here, a lack of transparency has been detected: contrary to what happened in 2011, RTVE did not issue a press release, despite the fact that the financial statement was also approved on the day some new directors were appointed. The CMT did not issue a statement and the regulator's 2011 annual report included no precise figure on the money actually levied, unlike the previous year's report.<sup>91</sup> The same document acknowledges that conflicts over RTVE levies represented the majority of decisions taken by the CMT that year.<sup>92</sup>

The confusing and non-transparent accounting combines with a €204 million cut in RTVE's 2012 budget, announced in December 2011. This is more than 10 percent of its 2011 budget (€1,200 million), and nearly 40 percent of the state subsidy included in the budget (€550 million).<sup>93</sup> The board reacted in February 2012 with a first package of adjustment measures, which included the replacement of drama serials (produced in-house) and first-run feature films with "classic" movies.<sup>94</sup>

In this scenario, the state's limitation of spectrum use for all public broadcasters seems the less important form of political intervention: LGCA 2010 prohibits public broadcasters from controlling more than a maximum threshold of 25 percent of the available spectrum allocated to television and 35 percent for radio.<sup>95</sup>

#### 2.1.4 Public Service Media and Digital Switch-over

RTVE's DTT geographical reach is virtually the whole Spanish territory. As of April 2011, the multiplex including La 1, La 2, Clan, 24 Horas, RNE, and Radio 5 already covered more than 98 percent, whereas the second multiplex holding TVE HD, Teledeporte, Radio Clásica, and Radio 3 achieved 96 percent coverage in May 2011.<sup>96</sup> However, RTVE did not play a leading role in the digital switch-over, which was conducted by the Government in the form of a detailed number of deadlines for broadcasters and terrestrial network operators to meet.

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90. The RTVE press release on the 2010 accounts is at <http://www.rtve.es/rtve/20110330/corporacion-rtve-ahorra-123-mi...pecto-presupuestado-gasta-648-millones-menos-2009/420804.shtml> (accessed 13 August 2012). RTVE's 2011 main financial data are formally accessible via a note by Europa Press news agency: see <http://www.europapress.es/tv/noticia-rtve-cierra-cuentas-2011-deficit-29-millones-euros-20120724175227.html> (accessed 13 August 2012).

91. Some figures remain hidden in legal orders accessible by the CMT website's search engine. As for the 2009 consolidated figures, they were published in a CMT blog entry dating from March 2011. See <http://blogcmt.com/2011/03/18/financiacion-de-rtve-cuantias-definitivas-que-deben-aportar-las-tv-en-2009> (accessed 13 August 2012).

92. CMT, "Memoria anual de actividades 2011" (2011 yearly activity statement), p. 7, at <http://informecmt.cmt.es> (accessed 13 August 2012).

93. Rteve.es, "El Consejo de ministro aprueba una rebaja de 200 millones en el presupuesto de RTVE" (Council of Ministers approves a reduction of €200 million in RTVE's budget), 30 December 2011, at <http://www.rtve.es/noticias/20111230/consejo-ministros-aprueba-rebaja-200-millones-presupuesto-rtve/486089.shtml> (accessed 13 August 2012).

94. Rteve.es, "El presidente de turno de RTVE: los recortes harían peligrar la existencia de Teledeporte y Clan" (RTVE's interim president: cuts would risk the existence of Teledeporte and Clan channels), 29 February 2012, at <http://www.rtve.es/noticias/20120229/rtve/502644.shtml> (accessed 13 August 2013).

95. LGCA 2010, Art. 42.

96. Data obtained from a questionnaire sent to RTVE's Radiocommunications Unit Director, Ignacio Saló. Answers were received on 8 April 2011.



David Varona, the corporation's social media and participation manager, believes that audience engagement in RTVE web products and services has been able to increase through new web participation strategies. This is a positive response to a corporate strategic move to add value to broadcast output through the RTVE's enriched online services. Mr Varona states that audience engagement has been especially significant in the thematic channels Clan and Teledeporte.<sup>97</sup> Even though there are no studies available confirming an audience flux from the web to DTT, both Clan and Teledeporte are the thematic channels leading their respective audience niches.

## 2.2 Public Service Provision

### 2.2.1 Perception of Public Service Media

The public service concept has actually developed thanks to radio and television case law; this has made up for the fact it has never been defined as such in law.<sup>98</sup> Radio and television were labeled an “essential public service” under the first democratic statute (1980).<sup>99</sup> Some guiding principles were attached to it: respect for fundamental civil rights and constitutional principles (the right to privacy, respect for political and social pluralism, the protection of children), along with some journalistic normative ideals (“objectivity, veracity and impartiality of information”, “the separation of facts and opinions”).<sup>100</sup>

In 1988, these principles were applied to the new commercial broadcasters as well,<sup>101</sup> but the positive obligations for them to deliver specific public service content were vague and unmonitored (see section 2.2.2). A significant change occurred in 2001: the law provided the first definition of a “public service function” in radio and television services. It emphasized diversity of content (programs and genres) with the aim of providing “quality information culture, education and entertainment.” On this occasion, however, this function was limited to RTVE.<sup>102</sup>

In practice, though, principles were not being observed and social discontent followed. In the same year, 2001, a campaign in defense of public radio and television was set up (*Plataforma en defensa de la radiotelevisión pública*). At first this was an initiative by RTVE unions, fearing for their jobs in the face of right-wing PP rationalization plans to cut the increasing levels of debt. However, it soon turned into a platform representing more than 50 civil and media organizations, along with individual media professionals and scholars.

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97. Telephone interview with David Varona, social media manager and journalist at RTVE.es, 20 February 2011.

98. L. Parejo, “Servicios Públicos y servicios de interés general. La renovada actualidad de los primeros” (Public services and general interest services. The renewed actuality of the former), *Revista de Derecho de la Unión Europea*, no.7, 2004, pp. 52 and 54.

99. Law 4/1980, Radio and Television Statute, *BOE* no. 11, 12 January 1980, Art. 1 (hereafter Law 4/1980).

100. Law 4/1980, Art. 4.

101. Law 10/1988 on private television, *BOE* no. 108, 5 May 1988, Art. 3.

102. Law 24/2001 on fiscal, administrative, and social measures, *BOE* no. 313, 31 December 2001, additional provision 16.2. It amends Law 4/1980, Art. 5.

Its goal also expanded: to raise social awareness about the need to defend high-quality and independent public service media, be this at state, regional, or local level. A founding manifesto spoke out about what critics and scholars had been denouncing since the 1980s and what was already common knowledge in Spanish society: that public radio and television “are not characterized by pluralism, veracity and impartiality, nor by their independence from the political power.”<sup>103</sup> Indeed, in July 2003 the Spanish high court condemned TVE for partiality and hiding data favorable to unions in its coverage of the 2002 general strike against the Aznar government’s labor reform. A year later, the Parliamentary Assembly of the Council of Europe mentioned this ruling as an example of “manipulation of information under political influence” in a recommendation supporting public service broadcasting.<sup>104</sup>

This was a turning point that helped to stir the reform process culminating in the RTVE Law 17/2006. Since then, the broadcaster’s overall independence from government interference has greatly improved. The right-wing PP was virtually the only party to denounce, in Parliament, the alleged preferential treatment given by public broadcasters to the governing PSOE and was demanding the TVE news director’s dismissal until the change of government in 2011.<sup>105</sup>

Professionals thought otherwise about the political independence of TVE. In a two-year qualitative study (2006–2008) examining perceptions on public service principles and performance, TVE daily news professionals maintained that government pressure no longer existed.<sup>106</sup> But they also acknowledged that previous governments’ utilization of the channel for their own ends had seriously damaged the corporation’s reputation.<sup>107</sup> In fact, TVE audiences did not identify the normative ideals of “veracity” and “impartiality” in news programs. The authors of this study concluded that the “legacy of biases” was still very present in the audience’s discourse, especially among older and the more educated citizens.<sup>108</sup> In any case, subsequent public statements by professionals’ representatives have emphasized the independence achieved (see section 2.1.3).

This is consistent with results from the CIS special barometer in 2010 (see section 2.1.1). When first asked to choose among possible normative elements defining a “public service television function,” respondents mentioned the provision of good-quality content, impartiality in the news, and cultural output. Faced with adjectives defining “quality television content,” they put “educational” in the first place, followed by “entertaining,” and in the third place, with similar percentages, “innovative” and “impartiality in news.” “Diverse programming” was only mentioned in fourth place. Finally, when asked to assess actual performance

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103. *Manifiesto en defensa de la radiotelevisión pública* (Manifesto in support of public radio and television), in *Comunicar* 18 (2001), pp. 194–196.

104. Parliamentary Assembly of the Council of Europe, Recommendation 1641 (2004)1 on Public Service Broadcasting, at <http://assembly.coe.int/Mainf.asp?link=http://assembly.coe.int/Documents/AdoptedText/TA04/EREC1641.htm> (accessed 13 August 2012).

105. As an example, see Commission for Parliamentary Control of RTVE and Subsidiaries, session 24, Record of parliamentary proceedings no. 157, 24 November 2010, at [http://www.congreso.es/public\\_oficiales/L9/CORT/DS/CM/CM\\_157.PDF](http://www.congreso.es/public_oficiales/L9/CORT/DS/CM/CM_157.PDF) (accessed 10 December 2010).

106. Retis, Graván, García Matilla, *Los informativos en BBC y RTVE*, p. 117.

107. Retis, Graván, García Matilla, *Los informativos en BBC y RTVE*, p. 78.

108. Retis, Graván, García Matilla, *Los informativos en BBC y RTVE*, p. 208.

of channels in these categories, La 1 ranked first in impartiality, diversity, and social commitment. In education, it followed La 2. Both, though, failed in innovation and entertainment.<sup>109</sup>

Finally, the economic crisis and recent government decrees (see section 2.1.3) have put the gains in audience engagement and independence at risk. As of November 2012, La 1's daily news programs remain the most viewed since September 2007, but the channel's audience leadership achieved in 2009 (see Figure 6) was lost in March 2012; it has ranked third since June 2012.<sup>110</sup>

Professional journalist organizations from Spain and abroad have criticized the changes mainly on grounds of independence. This is the case of Reporters Without Borders (*Reporteros sin Fronteras*) and the Spanish Federation of Journalists' Unions (*Federación Española de Sindicatos de Periodistas*, FeSP). Others, such as the Spanish Federation of Journalist Associations (*Federación de Asociaciones de Periodistas de España*, FAPE), are mostly worried about job losses and public service media viability.

PSOE has appealed against the April 2012 decree (amending the legal provisions on board composition and appointment procedures) to the Constitutional Court, the highest in Spain. The party's arguments are that there is no justification for the urgency in the legal reform, nor does the economic crisis and the need to cut public expenditure account for the elimination of the board members proposed by the unions. The Court accepted the appeal in July.<sup>111</sup>

In the Spanish press the treatment of these events varies according to each paper's ideological allegiances. The right-wing broadsheets tend to present the news on dismissals and new appointments as neutral data and to leave interpretations for editorials, mostly favorable on account of the technical profiles of new managers.<sup>112</sup> Outlets belonging to the center-left group PRISA talk about "involution"<sup>113</sup> or a "total takeover" by the Government.<sup>114</sup>

This issue has also won the attention of the foreign press. News stories and comments by foreign correspondents spread after the dismissal of a high-profile TV presenter on 3 August 2012. Most of these stories and comments described the issue in sensational terms, such as a "purge of those against austerity measures" (*The Guardian*), or "government putsch" (*Libération*).<sup>115</sup>

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109. CIS, "Barómetro de Mayo," 2010, pp. 11–14.

110. Data from Barlovento Comunicación based on Kantar media. Available at: [http://www.barloventocomunicacion.es/images/publicaciones/NOTA\\_NOVIEMBRE\\_2012\\_BARLOVENTO\\_COMUNICACION\\_\\_AUDIENCIAS.pdf](http://www.barloventocomunicacion.es/images/publicaciones/NOTA_NOVIEMBRE_2012_BARLOVENTO_COMUNICACION__AUDIENCIAS.pdf) (accessed 2 November 2012).

111. Elpais.com, "El Constitucional examinará el nuevo modelo de RTVE" (The Constitutional Court will examine the new RTVE model), 5 July 2012, at [http://sociedad.elpais.com/sociedad/2012/07/05/actualidad/1341488293\\_014078.html](http://sociedad.elpais.com/sociedad/2012/07/05/actualidad/1341488293_014078.html) (accessed 13 August 2012).

112. See, e.g., *La Razón*, "El PP elige a un técnico para reestructurar RTVE" (PP chooses a technician to restructure RTVE) and "RTVE, tiempo de austeridad" (RTVE, austerity times), p. 18, and editorial, 5 June 2012.

113. Cadenaser.com, "La involución de RTVE" (RTVE's involution), 6 August 2012, at [http://www.cadenaser.com/sociedad/articulo/involucion-rtve/csrsrpor/20120806csrsrsoc\\_4/Tes](http://www.cadenaser.com/sociedad/articulo/involucion-rtve/csrsrpor/20120806csrsrsoc_4/Tes) (accessed 13 August 2012).

114. Elpais.com, "El gobierno toma el control total de RTVE" (The government takes overall control of RTVE), 4 June 2012, at [http://sociedad.elpais.com/sociedad/2012/06/04/actualidad/1338803115\\_534063.html](http://sociedad.elpais.com/sociedad/2012/06/04/actualidad/1338803115_534063.html) (accessed 13 August 2012).

115. Along with the online versions of *The Guardian* and *Libération*, *Le Monde* also published a news story on the topic, all from 5 to 9 August 2012. Foreign correspondents from the UK, France, and Germany media have also expressed their personal criticism. A compilation is found in Radiocable.com and at <http://www.radiocable.com/burridge-pastor-tve-bbc372.html> (accessed 10 August 2012).

Individual members of the public have expressed themselves in different ways: a signature collection campaign against the legal reform has been promoted in the activist website Change.org.<sup>116</sup> Protest letters to the editor have multiplied in the center-left-wing press (e.g., *El País*). Audiences of specific programs have massively expressed their outrage through comments in the program's own phone-in sections or social media channels, as with RNE's breakfast magazine "*En días como hoy*" (A Day like Today).

As to organized civil society initiatives, along with the revived Teledetodos campaign in defence of public broadcasting,<sup>117</sup> media users' groups such as the Users' Communication Association (*Asociación de Usuarios de la Comunicación*) or the Federation of Associations of Media Consumers and Users (*Federación de Asociaciones de Consumidores y Usuarios de los Medios*, ICMedia) have protested, as well as some media scholars' organizations like the Latin Union of Political Economy of Information, Communication, and Culture (*Unión Latina de Economía Política de la Información, la Comunicación y la Cultura*, ULEPICC). But there has been no substantial mobilization of public protest to date.

In-house, RTVE staff have expressed themselves in nuanced and sometimes confusing ways. RNE and TVE News councils organized votes on the eligibility of their respective newly appointed news directors in July 2012, but only 30 percent of staff participated: a very high abstention rate, hardly highlighted by the press. More recently, in November 2012, staff denounced intimidation by management after some journalists refused to sign certain news reports, on the grounds that the editorial line had been imposed against their professional principles. They claimed that, by refusing, they were exercising their right to "freedom of conscience", which is protected under Spanish law.<sup>118</sup>

In private, individual RTVE workers express perplexity, anxiety, and exhaustion. Some feel uneasy with the interpretation of the replacements as merely an ideological "purge" by the PP. They emphasize that personal, clientelist interests are also involved in the dismissals.

But all the RTVE staff members consulted by the authors of this report deplore the impolite manners used in sacking the TVE production staff—described by one press commentator as "a Tony Soprano-like approach to human resources"<sup>119</sup>—and especially regret the lack of a successful, long-term, in-house production and scheduling strategy.

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116. The initiative was submitted on 26 April 2012 by Alberto Estévez in favor of RTVE's independence, at <http://www.change.org/es/peticiones/por-la-independencia-de-rtve-no-al-control-pol%C3%ADtico-del-gobierno-rtvedetodos> (accessed 13 August 2012).

117. See <http://teledetodos.com> (accessed 13 August 2012).

118. See the press release by TVE's News Council, *Grave ataque a la libertad de información* (Serious attack on freedom of information), 23 November 2012, at <http://www.consejo-informativostve.es/comunicados/comunicados/75-grave-ataque-a-la-libertad-de-informacion.html> (accessed 27 November 2012).

119. *The Guardian*, "Spain's cowardly purge of the journalists who ask difficult questions," 7 August 2012, at [http://www.guardian.co.uk/commentisfree/2012/aug/07/spain-purge-journalists-government-votes?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+theguardian%2Fmedia%2Frss+%28Media%29&utm\\_content=Google+Reader](http://www.guardian.co.uk/commentisfree/2012/aug/07/spain-purge-journalists-government-votes?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+theguardian%2Fmedia%2Frss+%28Media%29&utm_content=Google+Reader) (accessed 13 August 2012).

A final word must be said here about public regional broadcasters. Since their emergence in two waves (first in the 1980s and 1990s, mainly in those regions considered as “historic nations”, and then in the 2000s), they have been accused of flagrant partisanship in favor of the Autonomous Communities’ governments. They have also been criticized for wasting public funds. The Spanish commercial broadcasters are pushing to transform them into only one regional operator while the regional public service broadcasters themselves argue for the real implementation of the original model but with increased efficiency.<sup>120</sup> Finally, the new right-wing government has decided to modify the existing law (LGCA 2010) in order to allow for their privatization from 2012 onwards.<sup>121</sup>

Parallel with central government action at state-wide level, the Autonomous Communities’ governments (Murcia, Catalonia, Valencia, Madrid, and others) have undertaken audiovisual law reforms and are considering or already implementing massive redundancy plans. This was the case in the Catalan and the Valencian regions, which are under conservative governments, as of the first quarter of 2012.<sup>122</sup> Arguing that the public debt and expenditure must be slashed, the management changes match those of the central government: the number of board members has been reduced and their appointment procedure simplified in order to avoid the need to reach a broad majority. As to redundancy plans, workers have also issued manifestos and set up platforms in defense of public service media. These organizations have also sprung up elsewhere, as in Madrid and Galicia.<sup>123</sup> Their key argument is that public services may not be inefficient per se, but those who manage and audit their resources often are.

The Valencian broadcaster’s (*Radiotelevisió Valenciana*, RTVV) redundancy plan, which caught the attention of the foreign press,<sup>124</sup> is especially relevant for its sheer scale. By July 2012, RTVV’s debt stood at nearly €1,300 million: close to one million for each of its 1,695 staff.

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120. The association of Spanish commercial televisions, the Association of Commercial Television Broadcasters (*Unión de Televisiones Comerciales Asociadas*, UTECA), commissions year-on-year reports on the budgets of these public broadcasters, and FORTA has recently countered criticism with their own commissioned study. See Deloitte and UTECA, “Análisis comparativo de la televisión regional en Europa: estudio de los modelos de televisión pública en Europa” (Comparative analysis of regional television in Europe: study of public television models in Europe), September 2011, at [www.uteca.com/uteca\\_contenidos/.../UTECA-240920111311.pdf](http://www.uteca.com/uteca_contenidos/.../UTECA-240920111311.pdf). See also Accenture and FORTA, “Informe sobre el papel de la televisión pública en España” (Report on the role of regional public television in Spain), 2012, at <http://www.forta.es/Portals/0/Forta1200.pdf> (accessed 13 August 2012).

121. Europapress.es, “Congreso aprobará la ley que permite privatizar televisions autonómicas” (Congress passes law allowing privatization of autonomous televisions), 23 July 2012, at <http://www.europapress.es/castilla-lamancha/noticia-congreso-aprobara-definitivamente-martes-ley-permite-privatizacion-televisiones-autonomicas-20120723173815.html> (accessed 13 August 2012); *El País*, “El Ejecutivo aprueba una ley para privatizar las televisions autonómicas” (Government passes a law to privatize regional television), 20 April 2012, at [http://politica.elpais.com/politica/2012/04/20/actualidad/1334907236\\_485283.html](http://politica.elpais.com/politica/2012/04/20/actualidad/1334907236_485283.html) (accessed 15 May 2012).

122. These laws are: Laws 2/2012 on the modification of several audiovisual laws, *Diari Oficial de la Generalitat de Catalunya (DOGC)* no. 6075, 27 February 2012; and Laws 3/2012, on the Valencian Radio and Television Corporation Statute, *BOE* no. 188, 7 August 2012.

123. These platforms are actively blogging and using social media. See <http://tv3teva.cat>, <http://siartvv.wordpress.com>, <http://www.salvemostelema-drid.es>, and <http://agalegapublica.blogspot.com.es> (accessed 13 August 2012).

124. See Lemonde.fr, “Les salariés de la télévision valencienne confisquent l’antenne” (Employees of Valencia TV seize the broadcasting), 17 July 2012, at <http://espagne.blog.lemonde.fr/2012/07/17/les-salaries-de-la-television-valencienne-confisquent-lantenne> (accessed 30th August 2012). According to UGT, the Japanese daily *Mainichi* was to devote a report on RTVV’s redundancy plan. See [http://www.ugtrtvv.net/cms/index.php?option=com\\_content&view=article&cid=197:120808entrevistajapones&catid=39:que-diem-nosaltr&Itemid=48](http://www.ugtrtvv.net/cms/index.php?option=com_content&view=article&cid=197:120808entrevistajapones&catid=39:que-diem-nosaltr&Itemid=48) (accessed 24 August 2012).

Under this unsustainable burden, RTVV's management approved a harsh and unprecedented redundancy plan, dismissing three in four employees. RTVV's board approved the plan hastily in August, after abortive negotiation with unions—the only parties to the dispute which made statements to the media.<sup>125</sup> Most of the board members—who are proposed by the regional parliament in proportion to party representation—are PP-related, or simply former PP politicians. Two former general directors are currently accused of serious offenses: the sexual harassment of female workers, and the diversion of public funds.<sup>126</sup>

The debt had grown by 4,000 percent since 1995, with payroll costs rising at the same rate that in-house production fell. Public auditors have faulted the inflated expense of contracting out drama and entertainment, but also documentaries, along with the renewal of contracts for programs with very small audiences. The increase in sports broadcast rights purchases was also singled out for criticism.

The unions announced in September that they would sue RTVV over the plan. At the time of writing, however, it looks quite possible that a history of blatant manipulation of news (in favor of the regional ruling party), public indifference, and the critical economic situation may combine to make RTVV disappear as a state-owned public service broadcaster.<sup>127</sup>

## 2.2.2 Public Service Provision in Commercial Media

Apart from the respect for fundamental rights mentioned above, no specific public service obligations as such have ever been imposed on the commercial media. Moreover, with the new LGCA 2010 in place, the 1980s legal concept of “essential public service” in television and radio services has been circumscribed to apply only to state-owned broadcasting. From now on, “audiovisual communication services” are considered as “general interest” services, and, as such, are entitled to some fundamental freedoms, namely the freedom of expression, the right to communicate and receive information, the right to participate in political and social life, and the freedom of enterprise. The only obligation placed on commercial broadcasters is the “promotion of equality, plurality and democratic values.”<sup>128</sup>

In the previous consultation process, some organizations and state authorities, such as the CMT and the consultative Council of State, applauded this change on the grounds of platform convergence and the abundance of supply brought about by digitization.<sup>129</sup>

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125. Other broadcasters—such as Telemadrid, in another region governed by the conservative PP—are following the example set by RTVV. See Elconfidencial.com, “Telemadrid arranca el proceso para un ERE que afectará a ‘entre 700 y 800 trabajadores’” (Telemadrid starts a process for a redundancy plan affecting “between 700 and 800 workers), at <http://www.elconfidencial.com/comunicacion/2012/08/24/telemadrid-arranca-el-proceso-para-un-ere-que-afectara-a-entre-700-y-800-trabajadores-104203/> (accessed 24 August 2012).

126. *The Guardian*, “Spanish opposition party rocked by corruption scandal”, 6 March 2009. Available at <http://www.guardian.co.uk/world/2009/mar/06/spain-opposition-corruption-scandal> (accessed 13 August 2012).

127. An article by RTVV journalist Julià Àlvaro critically analyses the responsibilities for the company's failure, including not only the regional government and RTVV management, but also the opposition, RTVV staff and audience. See *Elpais.com*, “Epílogo” (Epilogue), 9 June 2012. At [http://ccaa.elpais.com/ccaa/2012/06/09/valencia/1339260364\\_823479.html](http://ccaa.elpais.com/ccaa/2012/06/09/valencia/1339260364_823479.html) (accessed 13 August 2012).

128. LGCA 2010, Art. 22.

129. See CMT Report, MTZ 2009/1039, 16 July 2009, p. 5; Council of State Report no. 1387/2009, 17 September 2009.

Civic organisations and professional unions were not able to organize a unified defence of public service obligations. The Users' Communication Association (*Asociación de Usuarios de la Comunicación*, AUC), representing more than 10,000 users and the only civil society organization listened to by the Government, was concerned with advertising limits and the protection of children from harmful content. This is consistent with the priorities listed by the AUC's president, Alejandro Perales: the "maintenance and strengthening of public service" comes only after the enforcement of advertising regulation, protection of children, privacy, and the fight against the digital divide. He considers that "those are the topics in which basic aspects of the defense of users' rights are set out."<sup>130</sup>

On the other hand, journalists from FeSP and the ReMC demanded further specific public service obligations to be placed on the commercial media. Among other things, they proposed a requirement on commercial broadcasters to respect political, social, and cultural pluralism in their programming; to promote the different cultures and languages in Spain; to avoid subliminal messages and to separate advertising from content. They included working conditions and professional demands that have been systematically ignored by Parliament: the compulsory existence of a union collective agreement and a self-regulatory journalistic statute.<sup>131</sup> All these amendments were proposed by left-wing opposition groups in the Chamber of Deputies, but were rejected in the parliamentary debate.

## 2.3 Assessments

The digitization of terrestrial television started in Spain at the end of the 1990s, but RTVE never drove the process. Two factors, local and global, have contributed to hindering RTVE's leading role: the complex RTVE legal reform aimed at solving its in-house financial, organizational, and professional credibility problems; and the enduring economic crisis.

However, after 2004 there was a political commitment to give a special position to RTVE in the DTT scenario: it was identified by law as the motor force of DTT roll-out and, as such, given the special duty of innovation in platforms and content. Consistently, two out of eight multiplexes were allocated to the Spanish public broadcaster. And, after the professionalization of its management, its Web 2.0 and social media strategies have borne fruit in terms of audience consumption and engagement.

But there remain some black holes in financing and management. The loss of advertising revenue since 2010, under the terms of the Financing Law (2009), has made RTVE vulnerable compared with commercial broadcasters, because of the contestation and legal uncertainty of levies on telecoms in the EU. There is no license fee, and its introduction would be very unpopular in the midst of the economic crisis. Most experts dismiss this option in the short run and propose alternatives such as sponsorship, which has so far been applied only timidly and for specific minority programs.

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130. Responses to a questionnaire sent to the AUC's president, Alejandro Perales, received 20 December 2010.

131. See amendments at [http://www.fesp.org/docs/LeyAV\\_EnmiendasFeSP.pdf](http://www.fesp.org/docs/LeyAV_EnmiendasFeSP.pdf) (accessed 26 January 2010).

The debt crisis in the Eurozone and the ensuing austerity measures prioritizing the payment of government debt and deficit reduction are putting even more pressure on RTVE. This is part of a wider trend also affecting the state-owned EFE news agency and public regional broadcasters.

Along with the unstable funding regime, more precariousness has been introduced by legal changes to the governance of public service broadcasters. For RTVE, in the course of only seven months (from the end of December 2011 to the beginning of August 2012), the new PP government diluted a far-reaching governance and financial reform program that was established by the previous government after a two-year consultation with media experts. The audience leadership of RTVE was lost in the first quarter of 2012 and the situation threatens a return to a pre-digitization scenario where Spain's main public service broadcaster was singled out by the Council of Europe as an epitome of political interference. Regionally, after the accelerated reform of a 30-year-old framework and under pressure from commercial operators, there is now the possibility for regional governments to privatize public broadcasters.

All these media policy choices have prompted questions over the legitimacy of public service broadcasting itself, a topic which is highly contested along political lines.

For the moment, the current legal framework has limited the public service mission to the state-owned media, on the grounds of digitization. Here, legislators, competition authorities, and some law scholars appear to regard this as sufficient: the general protection of fundamental rights is seen as already imposing content restrictions on commercial broadcasters.<sup>132</sup> On the contrary, critical media scholars and left-wing parties alike oppose the legal change and have denounced the reform process as opaque, undemocratic, and dictated by the Association of Commercial Television Broadcasters (*Unión de Televisiones Comerciales Asociadas*, UTECA)—an undue influence that UTECA publicly denies.

To sum up: the Spanish public service media landscape combines a de facto shrinking public service mission with recent partisan behavior in state-owned public service management and a huge funding crisis. RTVE has recently lost some of the big advances in economic sustainability, professional independence, and good governance that it made from 2004 to 2010.

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132. S. de la Sierra, E. Guichot, M. Mantini, S. Medina, and I. Sobrino, "Media policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: The case of Spain," in European Commission, Mediadem, "Background Information Report," October 2010, pp. 378–411, at <http://www.mediadem.eliamep.gr/wp-content/uploads/2010/05/BIR-final.pdf> (accessed 24 November 2010).



## 3. Digital Media and Society

### 3.1 User-Generated Content (UGC)

#### 3.1.1 UGC Overview

According to statistics supplied by Alexa, Comscore, and Google Adplanner, the most popular websites by number of unique visitors in Spain are Google, Microsoft, and Facebook (see Table 8).

*Table 8.*  
Most popular websites by number of unique visitors, 2011

	Alexa	Comscore	Google Adplanner
1	Google	Microsoft sites	Facebook
2	Facebook	Google	Windows Live
3	YouTube	Facebook	Blogspot
4	Windows live	Terra—Telefónica	MSN
5	Blogger.com	Yahoo!	Yahoo!
6	Yahoo!	Grupo PRISA	Wikipedia
7	Wikipedia	Wikipedia	Tuenti
8	Marca	Vocento	Marca
9	Twitter	RSC Media Group	Microsoft
10	MSN	Orange	El País.com

Sources: Alexa.com;<sup>133</sup> Comscore.com;<sup>134</sup> Google Adplanner<sup>135</sup>

The three sources identify the most visited sites, although their results are not comparable due to their different methodologies. Alexa and Google Adplanner quantify visitors per web page. This is why Microsoft has two sites among the top 10: the e-mail, online messaging, and file-sharing site, Windows Live, and the

133. See <http://www.alexa.com/topsites/countries/ES> (accessed 28 February 2011).

134. *The Comscore 2010 Europe Digital Year in Review*, February 2011, p. 32 (hereafter *Comscore 2010 Digital Year*).

135. It should be noted that this internet media planning system does not measure Google sites.

search and news portal, MSN. Comscore aggregates visitors from all pages and sites by company, which makes Microsoft's sites rank first and permits entrants from the media sector, such as the PRISA and Vocento groups. Had unique users from each of their media been taken into account, neither of these two groups would be among the top 10. Indeed, Alexa's and Google's lists show that the first digital media outlet, Marca.com, belonging to another media group, Unidad Editorial, ranks eighth.

If we consider as UGC the contribution of public, free, and original content by web users, 60 percent of Alexa's top 10 sites contain this type of content, although just one of them is a media outlet, which is a general-interest outlet, the sports news daily *Marca*. A similar situation could be found in the Google Adplanner classification.

Facebook is the leading UGC website and YouTube ranks second, according to Alexa statistics. Josep Martínez Piñero, an expert in education and information and communication technology (ICT), states that this trend "is unstoppable, Spanish adolescents do not want to read or learn through interactions, they prefer a video clip and their main source of information is YouTube."<sup>136</sup> We may well be living the "Justin Bieber" effect (named after the 17-year-old Canadian singer discovered on YouTube) as defined by the analyst Jesús Encinar: "a perfect example of how the relation between UGC and the production [of the content] industry works. The challenge [...] is not downloads but the free content avalanche."<sup>137</sup>

YouTube is followed by a diverse range of sites, such as Blogger.com, which hosts blogs on many different topics such as politics, social action, cooking, and travelling. Wikipedia ranks seventh in the Alexa list, followed by the only news media outlet, the sports news daily *Marca*. Here, UGC is limited to introducing comments on the news and live matches, participating in some of the forum discussions with sports celebrities, and playing a news game based on the competitions' results. Twitter is in ninth place, a social network that has not only become a reference point in interpersonal communication among interest groups, but is also seen by some analysts as the future platform for online journalism.<sup>138</sup>

As described above, UGC is present in six out of the 10 most visited sites, but contents are diverse and encompass all types: video, photo, text, and comments. As for the quality of these contents, on most sites there is a need to control this kind of contribution: first, to regulate the users' behavior; second, to guarantee that UGC meets minimum standards and is not damaging the web's reputation. According to Elvira García de Torres, a professor of communication and information of the Universidad CEU Cardenal Herrera, "beyond confirming the presence of UGC, researchers begin now the difficult but needed path towards the understanding of what future journalism will be like: assessing UGC's quality."<sup>139</sup>

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136. Interview with Josep Martínez Piñero, teaching trainer at the Catalan's government's Department of Education, Barcelona, 28 March 2011.

137. See <http://www.jesusencinar.com/2011/02/en-el-contenido-generado-por-el-usuario-es-donde-nacen-los-exitos-profesionales.html> (accessed 5 March 2011).

138. N. Presas and Vicent Partal, "Twitter és l'única xarxa social que canviará la manera de fer periodisme" (Twitter is the only social network that will change the way of doing journalism), *Comunicació* 21, 29 November 2010, at <http://comunicacio21.cat/2010/11/vicent-partal-twitter-es-l-unica-xarxa-social-que-canviara-la-manera-de-fer-periodisme/> (accessed 3 March 2011).

139. E. García de Torres, "Contenido generado por el usuario: aproximación al estado de la cuestión" (User-generated content: approaches to the framework), *El profesional de la información* 19(6) (November–December 2010), pp. 585–594.

### 3.1.2 Social Networks

As can be seen from Table 8, the three most influential social networks in Spain are international, although the fourth one is of Spanish origin and is more significant in some areas, such as Andalusia. Other social networks such as MySpace or Vimeo rank below 86. According to the Comscore survey,<sup>140</sup> social networking has grown 11.3 percent year on year. Facebook is the most popular networking site, with growth of more than 18 percent per year and outperforming Tuenti from 2009 onwards. News consumption through Twitter has grown, first as a result of events such as Barcelona’s historic snowfall in March 2010, extensively followed through the hashtag #neucat,<sup>141</sup> then because of being able to access information on the city’s suburban railroad transport that can be followed through #rod1, #rod2,<sup>142</sup> as well as anything related to the democratic regeneration movement, 15-M, developed in Madrid and Barcelona’s main square (and other cities) in May 2011.

Table 9.  
Most popular social networks, 2011

	Alexa	Google Adplanner	Million users according to Google Adplanner January 2011
1	Facebook	Facebook	21
2	YouTube	Tuenti	9
3	Twitter	Twitter	4.1
4	Tuenti	LinkedIn	2.3
5	LinkedIn	Taringa	2.2
6	Flickr	Flickr	1.5

Sources: Alexa.com; GoogleAdplanner<sup>143</sup>

### 3.1.3 News in Social Media

With regard to news consumption and its relation to social media, Meneame.net<sup>144</sup> is a good example of a Spanish bookmarking site where users can share the most relevant news references on the web and move them so that other users can also read and give them prominence. This site ranks 43 in Alexa’s list.

As for the degree of novelty of the news in social media, a study by Appletree Communications of Twitter (March 2012) stresses that 86 percent of trending topics in Spain “are mere repetitions of news stories coming from the legacy media.”<sup>145</sup> Among the most important topics analyzed during 2011 there were

140. Comscore 2010 Digital Year, p. 7.

141. See <http://twitter.com/23neucat> (accessed 3 March 2011).

142. See <http://rodalia.info/ca/l/rod1>; <http://twitter.com/rodalia4> (accessed 3 March 2011).

143. See <http://www.alexa.com/topsites/countries/es> (accessed 28 February 2011).

144. See <http://www.meneame.net> (accessed 3 March 2011).

145. AppleTreeCommunications, Twitterscopio #03, at [http://dl.dropbox.com/u/2242091/appletree\\_Twitterscopio03.pdf](http://dl.dropbox.com/u/2242091/appletree_Twitterscopio03.pdf) (accessed 1 April 2012).

mainly political and economic stories, along with sport and social news which derived from traditional media sources. This suggests that the news consumed through social media and blogs depends overwhelmingly on these sources whose content is often embedded or linked to by social media users.<sup>146</sup>

Finally, the rankings of Spanish blog sites suggest that they mostly focus on technology interests rather than news about politics or current affairs (see Table 10).

*Table 10.*  
Blogs ranked by popularity, July 2012

Rank*	Blog	Subject	'000 users per month in Spain according to Google AdPlanner**
1	ALT1040	Technology	240
2	FayerWayer	Technology	150
3	Escolar.net	Politics	180
4	El Comidista	Gastronomy	n/a
5	Applesfera	Technology	430
6	Amazings.es	Science	77
7	Genbeta	Technology	430
8	El Blog Salmon	Economy	290
9	Microsiervos	Technology	320
10	Xataka	Technology	760
11	Gizmodo	Technology	48
12	Yorokobu	Arts and Culture	120
13	Engadget	Technology	260
14	Apple Weblog	Technology	180
15	Cooking Ideas	Technology	85
16	ReadWriteWeb España	Technology	140
17	El blog de Enrique Dans	Technology	100
18	Bitelia	Technology	120
19	WWWhat's	Technology	380
20	Xataka Foto	Technology	160

*Note:* n/a: not available

*Sources:* \* Ebuzzing. <http://labs.ebuzzing.es/top-blogs>; \*\*Google AdPlanner (accessed 10 July 2012)

146. See <http://bitacoras.com/informe#medios-enlazados> (accessed 3 April 2012).

## 3.2 Digital Activism

### 3.2.1 Digital Platforms and Civil Society Activism

Digital platforms are a good way for all those groups that have traditionally lacked a platform in traditional media to get their voice heard. Three categories can be singled out: those groups defining themselves as “anti-establishment,” the groups fighting “the establishment” from inside, and individuals organizing for specific causes.

The anarchists and anticapitalists organized loosely in the anti-establishment group call intermittently for protests around, for instance, an international summit. Among those with a longer online tradition, the Spanish Indymedia,<sup>147</sup> Kaosenlared,<sup>148</sup> Alerta Solidaria,<sup>149</sup> and Nodo 50<sup>150</sup> stand out. All these portals bring together radical social protest, publicity for counter-information activities, and calls for civil disobedience.

Following the riots in Barcelona in October 2010, stirred by young anti-establishment protesters, the city authorities proposed to shut down websites encouraging violence on occasions such as police eviction of squatters or universities’ adaptation to the new European Higher Education System.<sup>151</sup> The groups responsible for these online organizations argued that each page or blog “is an intermediary and everything that is uploaded is the author’s responsibility.”<sup>152</sup> Sites warn that, even though there is no censorship before information is posted, they delete illegal or offensive content if someone demands it.

The groups working inside the system and using the web to disseminate their proposals and actions for social change include non-governmental organizations (NGOs), users’ and consumers’ associations, and citizens’ platforms. These resort to the web’s viral capability to mobilize the civil population, with results that seem to have sometimes influenced political decisions.

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147. See <http://madrid.indymedia.org/>; <http://barcelona.indymedia.org> (accessed 3 March 2011).

148. See <http://www.kaosenlared.org> (accessed 3 March 2011).

149. See <http://www.lahaine.org> (accessed 3 March 2011).

150. See <http://www.nodo50.org/> (accessed 3 March 2011).

151. J. García, “¿Expulsar a los antisistema de Internet?” (Expel the anti-internet?), *El País*, 5 October 2010, at [http://www.elpais.com/articulo/cataluna/Expulsar/antisistema/Internet/elpepuespcat/20101005elpcat\\_3/Tes](http://www.elpais.com/articulo/cataluna/Expulsar/antisistema/Internet/elpepuespcat/20101005elpcat_3/Tes) (accessed 7 March 2011).

152. J. García, “Internet, motor de los antisistema” (Internet, the anti-system engine), *El País*, 7 October 2010, at [http://www.elpais.com/articulo/cataluna/Internet/motor/antisistema/elpepiespcat/20101007elpcat\\_8/Tes](http://www.elpais.com/articulo/cataluna/Internet/motor/antisistema/elpepiespcat/20101007elpcat_8/Tes) (accessed 7 March 2011).

## Sinde Law

An example of political change initiated by internet action was the protest against the so-called Sinde Law, a section of the Sustainable Economy Law. This law intended to prosecute illegal downloading, streaming, and sharing of licensed content. The U.S. government put huge pressure on the Spanish Government to get the law passed, according to diplomatic cables released by WikiLeaks.<sup>153</sup>

The associations in favor of a free flow of internet information called for a protest in the form of the closure of all websites on 20 December 2010. The following day, the parliamentary commission in charge of the approval of the law rejected the shutting down of websites without the intervention of a judge.<sup>154</sup>

The internet users' associations, the association of small and medium-sized enterprises, and up to 20 more groups submitted an alternative proposal to the Senate Chamber. Among the proposed changes was the mandatory intervention of a judge to shut down websites, which was included in the final text, but this was to be only used as a last legal resort.<sup>155</sup> In the end, the controversial Sustainable Economy Law was passed in the Chamber of Deputies on 15 February 2011 with a 92 percent vote in favor, and published in the official gazette (*BOE*) on 5 March 2011. It gives a government committee the power to blacklist internet sites trafficking in copyrighted files. However, a new regulation for that committee had to be drawn up in order to apply the new law, and again the level of digital activism was sufficient to hold up its approval until the new liberal government took office at the end of December 2011. The former Spanish president, Rodríguez Zapatero, has acknowledged that internet activism and internal cabinet differences were key to holding up the approval of this regulation.<sup>156</sup>

A more recent example was the protest against the decision of the RTVE board to have access to the computer systems with information on editorial newscast decision-making in September 2011. The uproar in the social media, especially Twitter, was important for quickly reversing this decision in a new vote just two days later. However, it has to be said that traditional political and social reactions also played a significant role in changing the board's initial position.

There are some exceptional cases in which the web works as a citizen's platform for independent individuals. An example is the Facebook page "Contra el residuo del Ayuntamiento de Barcelona"<sup>157</sup> ("Against Barcelona's local government big waste tax") created by a member of the public.<sup>158</sup> The municipality announced that it

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153. N. Anderson, "How the U.S. Pressured Spain to adopt unpopular Web blocking law," *Ars Technica*, 6 January 2012, at <http://arstechnica.com/tech-policy/news/2012/01/how-the-us-convincing-spain-to-adopt-internet-censorship.ars> (accessed 8 January 2012).

154. See <http://www.red-sostenible.net> (accessed 7 March 2011).

155. See [http://aui.es/index.php?body=dest\\_v1article&tid\\_article=3371](http://aui.es/index.php?body=dest_v1article&tid_article=3371) (accessed 7 March 2011).

156. *El País*, "La presión en la red contribuyó a tumbar la ley Sinde" (Internet pressure helped to overturn the Sinde law), 12 December 2011, at [http://www.elpais.com/articulo/cultura/presion/Red/contribuyo/tumbar/ley/Sinde/elpepucul/20111212elpepucul\\_2/Tes](http://www.elpais.com/articulo/cultura/presion/Red/contribuyo/tumbar/ley/Sinde/elpepucul/20111212elpepucul_2/Tes) (accessed 26 December 2011).

157. See <http://www.facebook.com/pages/Contra-el-residuo-del-Ayuntamiento-de-Barcelona/104562959618146> (accessed 7 March 2011).

158. See <http://www.establedentrodelagravedad.com/2011/01/20/el-ayuntamiento-de-barcelona-remata-a-los-pequenos-autonomos-cobrando-por-residuos-ficticios> (accessed 7 March 2011).

would levy a tax on the self-employed working at home for the collection of industrial wastes. An individual citizen tried to mobilize the self-employed to lodge an appeal against the municipality and reach the media. As a result of the media scandal, the local government modified the tax.

Another case of citizen activism fostered by digital media is provided by Pablo Herreros, who blogs at [Comunicacionsellamaeljuego.com](http://Comunicacionsellamaeljuego.com). A specialist in media affairs, Herreros started a campaign on digital media in late 2011 to boycott a very popular late night entertainment program, “*La Noria*” (Ferris Wheel), on Telecinco. This program had paid €10,000 to interview the mother of a boy charged with murder. It was the last straw for a program with a history of dubious practices. The boycott called on “*La Noria*” advertisers to stop running their ads in this program. The response on the net was huge, more than 50 brands withdrew their commercials from “*La Noria*”, and Telecinco changed the program’s name to “*El Gran Debate*” (The Great Debate), and altered the concept to favor more social and political issues.

The case resurfaced in November 2012, when Telecinco took legal action against Herreros, demanding damages of €3.6 million to offset the losses incurred by the boycott. A digital initiative (based on [Change.org](http://Change.org)) collected 169,000 signatures in 10 days, in support of Herreros. Telecinco withdrew its claim under this pressure, and in exchange for a joint declaration by Telecinco and Herreros which recognized that advertisers cannot be held accountable for messages by media companies.<sup>159</sup>

### 3.2.2 The Importance of Digital Mobilizations

Digital activist groups who challenged the Sinde Law were part of the origin of the democratic regeneration social movement, 15-M, developed in the main squares of Madrid, Barcelona and other Spanish cities in May 2011. Its objective was to rethink and reform parliamentary democracy and capitalism, and it attracted huge media attention during spring and summer 2011. The movement reached such an unprecedented size in Spain that all public authorities have been surprised and unable to react to the problem and neutralize its impact. However, as the movement is leaderless (because it supports direct democracy as a way to regenerate the political system), its impact on parliamentary democracy has been limited, even if some left-oriented parties have adopted some of the movement’s proposals.

According to Ismael Peña of the Open University of Catalonia, “With no social media, the 15-M movement would not have appeared.”<sup>160</sup> The ground for the emergence of the movement was prepared during several months of social media hostility to the Sinde Law. Its origin can also be traced in some alternative websites and blogs opposing the hegemonic political discourse, although with no specific party allegiance. It is in those social media that the main ideas and arguments were born which would later gather together in the broad-based movement.<sup>161</sup> Their means of communication are Facebook, YouTube, and Twitter. With these social media they disseminate manifestos and call for public demonstrations, of which the most successful were held

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159. See <http://www.elmundo.es/elmundo/2012/11/27/comunicacion/1354041442.html>.

160. See <http://www.noticiasdenavarra.com/2011/06/01/sociedad/navarra/el-15-m-nacio-y-se-desarrollo-en-las-redes-sociales> (accessed 2 April 2012).

161. See <http://www.adslzone.net/article6045-las-redes-sociales-impulsan-el-movimiento-15-m-contr-la-clase-politica.html>, and <http://storify.com/pablobuenos/que-es-y-como-se-gesto-el-movimiento-15m> (accessed 2 April 2012).

simultaneously in the main Spanish capital cities on 15 May 2011. Later on, street camps and assemblies were formed in the most important Spanish squares to sustain and prolong the mobilization.

Two days after the 15 May demonstration, the Facebook page of “Democracia Real Ya” had 46,000 friends. By 20 May, it had amassed 180,000. The movement also projected its influence beyond the Spanish borders, and it received international support with the setting up of hundreds of sites abroad: Sydney, London, Brussels, Hamburg, Santiago de Chile, and Mexico City.<sup>162</sup>

Not all popular mobilizations emerging in the social media are successful. The dissemination of some very cruel images on the death of a puppy, which is known as the Schnauzi case, brought about the campaign “No al maltrato animal” (Say no to animal mistreatment). The group called for public protests on 20 March 2012 with strong support from affiliated groups and associations online suggested. In the event, however, turnout was not as significant as was expected.<sup>163</sup>

### 3.3 Assessments

It is clear that in Spain there is original, public, and free UGC, and that this content has both a social and political impact, although it is not always present in the most visited websites.

There is social activism through democratic and participatory platforms and associations, along with real concern among citizens, who are critical of social inequalities and who use digital tools to combat them. But not all UGC is of good enough quality in relation to its discursive and technical construction. Nor does it always respect democratic legal rules. It is necessary to continue with media literacy programs so that society ends up commanding the tools and discourse from a critical perspective, which will result in an enrichment of the democratic debate.

As for user-generated news online, we find there is little good-quality content in blogs or social media. Users tend to redistribute the news stories they consume through any online platform. In so doing, they also comment and disseminate these pieces on their own platforms, be it a blog or a personal page in a social network. Very few news stories are born on the web and gain a country-wide resonance without support from the legacy media.

Overall, our analysis suggests that social media in Spain do have the potential to achieve significant mobilization, but that developing this potential will depend on the prior existence of offline reasons for mobilization, on simple and visible public appeals, on viral reproduction, and on the amplification of protests by legacy media.

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162. See <http://blogs.lavanguardia.com/inspiracion-digital/2011/05/20/estudio-el-movimiento-15-m-y-las-redes-sociales-como-caldo-de-cultivo/> (accessed 2 April 2012).

163. See <http://www.scoobyzamora.org/concentracion.html> (accessed 2 April 2012).



## 4. Digital Media and Journalism

### 4.1 Impact on Journalists and Newsrooms

#### 4.1.1 Journalists

During the past few years, differences between newsrooms in online-only media and those in the legacy media have been reduced to such an extent that they hardly exist. Both use the same production technologies. They differ in the particular content distribution platform through which they get to the end-user via a range of reception devices: TV and radio, paper, radio waves, personal computer or mobile handset.

During this period, newsrooms have been digitized all over the country, not only the large, country-wide media, but also local media and production companies.

The first moves into digital news were made by the dominant traditional brands. Both in print and audiovisual media sectors, the wealthiest companies set up digital newsrooms working alongside traditional newsrooms.<sup>164</sup> Later on, new digital-only media sprang up, sometimes with support from a powerful media group or as an independent enterprise by a group of journalists committed to a free media model.<sup>165</sup> Currently, both kinds of media exist, and also a new third type, which is digital-only and financially supported by a media corporation.<sup>166</sup> The important point is therefore where digital outlets originate: from a big traditional corporation or a new digital company. According to a Spanish government media phone book, there are only 23 digital online news sites in Spain: 13 are digital-only enterprises and 10 are supported or owned by a traditional media corporation.<sup>167</sup>

Each newsroom has followed a different kind of convergence procedure. Big companies and public corporations have adopted a differentiated model. They have large, distinct newsrooms for each media outlet with no contact among them. Their output, though, can be shared. Each newsroom has its own special technology,

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164. The first two digital newspapers were Barcelona's dailies *Avui* and *El Periódico*, both in 1995.

165. The first was Vilaweb in 1995.

166. One example is Lamalla.

167. Presidencia del Gobierno, "Agenda de la Comunicación" (Communication phone book), Gobierno de España, Madrid, 2011, at <http://www.agenciasaeacp.es/publicaciones/docs/AGENDA2011.pdf> (accessed 20 April 2011).

resources, and journalists. One example is the public CCMA, which encompasses different digital media: the Catalan Television Company (Televisió de Catalunya), the Catalan Radio Company (Catalunya Ràdio) and the news portal 3cat24.ca.<sup>168</sup> Each one has its own newsroom and website, but television and radio content from the former two is shared and recombined in the latter. So far, 3cat24.cat also produces its own content, but on a much smaller scale and only in text form.

Small online-only news companies use multimedia language, and there is just one newsroom with the same journalists and technology for the whole workflow. An example is Vilaweb,<sup>169</sup> the oldest online-only news outlet, which has a small newsroom (only 12 journalists) for its online newspaper and IPTV, using multimedia language as a tool.<sup>170</sup>

Another difference between the digital media from a big or traditional news company and those from digital-only media is the content that they can afford. The former have big newsrooms and economic resources that enable them to produce their own news. For example, Rteve.es updated news stories about the air traffic controllers' strike in December 2010 on a minute-by-minute basis.<sup>171</sup> The new online-only digital media do not have these economic and human resources, so they rely on agencies to produce news. However, they can compete on local news and opinions. The latter are used to draw audiences' attention by including columnists that follow a particular editorial line and write more freely than in the traditional media. In the same air traffic controllers' strike, the online-only news outlet Libertad Digital posted agency information and a wealth of journalistic opinions, which were followed by thousands of audience comments.<sup>172</sup>

According to interviews with 10 editors from the main Spanish online-only outlets, direct interaction with the audience (through a visitors' counter system or users' comments on the site) appears to facilitate an immediate follow-up response. Editors stress that they can modify the news and adapt their content to audience demands. This carries risks and advantages unknown to traditional media. The first advantage is the ability to cater to audience needs, creating specialized contents, improving the update of news, and analyzing public responses. On the other hand, editors say that there is a risk in trivializing the news, because the public often follows sensationalist criteria, demanding scandals, stories involving sex and violence, etc., that respond to short-term curiosity but not to information needs aimed at the construction of a critical and democratic society.

Editors underlined as well the audience's role as a source through its interaction using the new digital tools. Audiences can be primary sources of information thanks to mobile phones or other communications devices. This means an increase in the number of witnesses and sources, which at the same time poses a risk because it

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168. See <http://www.tv3.cat>; [www.catradio.cat](http://www.catradio.cat); [www.3cat24.cat](http://www.3cat24.cat) (both accessed 5 November 2010).

169. See <http://www.vilaweb.cat> (accessed 5 November 2010).

170. R. Salaverría and S. Negro, *Periodismo integrado: convergencia de medios y reorganización de redacciones* (Integrated journalism: media convergence and newsroom), Sol90Media, Barcelona, 2008; M.A. Cabrera, *Evolución Tecnológica y Cibermedios* (Technological developments and cybermedia), Comunicación Social y Ediciones, Seville, 2010.

171. See <http://www.rtve.es> (accessed 4 December 2010).

172. See <http://www.libertaddigital.com> (accessed 4 December 2010).

is hard to verify these sources. One example was the news coverage of the conflict in the Sahara in November 2010, where new technologies allowed witnesses to provide newsrooms with pictures and information on invasions of encampments. In the case of this particular story, the media had evidence and material and thus could skip the information blockade imposed by the Moroccan government. But not all the information was true: some people close to the Polisario Front sent the newsrooms a picture of a group of children who had allegedly been wounded by the Moroccan army. In reality, they had been injured in the Palestine conflict.<sup>173</sup> Almost all digital media published the picture without verifying the information or the source.

According to the editors surveyed, digital newsrooms save money for media corporations. The working conditions of digital journalists are different from those of standard journalists. They have lower salaries but are expected to multi-task, a new job that is not included in traditional union agreements. There is a new professional figure, the digital journalist, who is witnessing a continuing change in his or her job description. Since the fading of specialization, working hours have tended to go up and salaries go down. For example, a regional broadcaster like Televisió de Catalunya or Canal Sur Televisión pays a digital journalist half the standard salary. The new digital media, with lower production costs, are unable to attract big advertising revenues and are forced to survive at the cash flow limit, with journalists living on low salaries and providing unpaid contributions. However, the future might be brighter if the Spanish internet advertising market follows other mature markets. At the moment, internet media hold a 13 percent share of the whole Spanish advertising market, compared with 24.3 percent in the UK.<sup>174</sup> But it is also true that advertising investment in digital media is growing twice as fast as in the UK and the United States.

#### 4.1.2 Ethics

The impact of digitization on the ethical behavior of journalists is not yet visible in deontological codes. Only the Catalan Professional Journalists' Association (*Collegi de Periodistes de Catalunya*) attempted to start a debate in 2000 on the use of internet resources "in order to reach an agreement on all the problems we may have when writing an Internet Ethical Code. Among them, advertising, hypertext links, e-commerce, image manipulation, copyright, privacy, impartiality, accuracy and credibility in on-line news."<sup>175</sup> There are a few deontological codes that include the use of internet resources, like those in the daily *El Correo Gallego*, the media group Vocento, Barcelona's local television station, Barcelona TV, and the Catalan public broadcaster, CCMA.<sup>176</sup> But none of them sets out how to use internet resources to improve journalism or what uses the journalist must avoid.

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173. See <http://www.periodistadigital.com/periodismo/prensa/2010/11/13/propaganda-manipulacion-periodismo-foto-el-aiun-el-pais-el-mundo-abc.shtml> (accessed 20 December 2010).

174. "Marketing y comunicación IAB Spain", Interactive Advertising Bureau, at <http://www.iabspain.net> (accessed 10 December 2010).

175. See [http://www.periodistes.org/documents\\_codi\\_deontologic](http://www.periodistes.org/documents_codi_deontologic) (accessed 1 November 2010).

176. J.L. Mico, J. Canavilhas, P. Masip and C. Ruiz, "La ética en el ejercicio del periodismo: Credibilidad y autorregulación en la era del periodismo en Internet" (Ethics in journalism: Credibility and self-regulation in the era of internet journalism), *Estudos em Comunicação* 4 (2008), pp. 15–39.

## 4.2 Investigative Journalism

### 4.2.1 Opportunities

According to the above-mentioned editors, digital tools (Twitter, search engines, etc.) present an opportunity for journalists to improve their research methods, but they are not yet widely used. Only journalists with a strong interest in new technology use them on a regular basis.

While professional working practices remain largely unchanged, there are new ways of compiling, storing, indexing, and recovering information. The quantity of data has increased. Information needs to be collated and sorted by relevance, and stored in new digital servers. A good index system is important for finding information and also for speedy data recovery. Digital tools allowing for storing and searching information are indispensable. Integrated news content management software, such as Dalet<sup>177</sup>—used at RNE—makes it possible to have a networked newsroom, with an archive and a mechanism to retrieve any previously broadcast radio program. According to an RNE journalist Rosa Cervantes, “When I have to make a report on any topic, the pre-production time is now reduced by a quarter. In my terminal I can locate within a very few minutes all the reports, interviews, and news items that have already been produced on that same topic.”<sup>178</sup>

### 4.2.2 Threats

The interviewees for this report also asserted that digitization can give rise to new problems for journalistic working practice.

First, there is an overabundance of sources and resources. Investigative journalists need to deal with the challenges of news selection and verification amidst the explosion of sources and information. Only training in the use of search engines and experience in news selection makes a journalist into an effective researcher. Antoni Novella, a journalist on the program “*Espai Internet*” (Internet space), with the Catalan Broadcasting Corporation flagship channel TV3, explains: “In one day you can visit more than 100 pages and you are sure that you’re missing one that is truly good—apart from the hundreds of email messages from people offering their website or blog to be in our program. There is not enough time to evaluate everything, you have to trust your instinct, your ability as a journalist to do the news selection.”<sup>179</sup>

Integrated digital newsrooms grant editors real-time access to the overall work in progress. They can use this access to improve production routines and supervise contents in development. Moreover, when someone reads or modifies a colleague’s output—whether a superior or a peer—this person leaves a digital print. This change in production routines has a direct effect on self-censorship.

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177. See <http://www.dalet.com/> (accessed 1 April 2012).

178. Interview with Rosa Cervantes, RNE journalist, Bellaterra, 20 January 2011.

179. Interview with Antoni Novella, TV3 journalist, Sant Joan Despí, 20 January 2011.

Time becomes very important in in-depth journalism. Digital newsrooms require constant news updates, which can make the journalist lose perspective and make it nearly impossible to research topics in any depth. The story of a Dutchman who supposedly flew with mechanical wings was covered by many Spanish media outlets on 20 March 2012.<sup>180</sup> Headlines such as “Leonardo’s dream” (Antena 3 TV) or “A Dutchman becomes first man to fly like a bird” (*La Vanguardia*) showed how fake but cleverly edited online video could evade professional filters due to the lack of time to verify and the urgency to publish first.

Finally, there is the problem that an audience with more information may not be better informed. The provision of rapid and plentiful news may result in the public being unable to assimilate and understand the information, and thus be truly well informed.

### 4.2.3 New Platforms

As far as we know, no new entrants in digital media are doing investigative journalism in Spain. One explanation for this may be the established tradition of journalism being manipulated by political and economic elites, which limits journalistic independence. There are further possible causes: the lack of resources and fear of legal consequences encourage opinions instead of investigation. It promotes superficial news treatment—by hinting on the basis of financial or political gossip—or news based on alleged leaks from official sources. Some of these digital online news media include: El Confidencial digital, La información, El plural digital, Libertad Digital, Nació Digital, and E-Notícies.<sup>181</sup>

### 4.2.4 Dissemination and Impact

In Spain, legacy media outlets are the only ones still generating investigative journalism, due to three fundamental elements: budget, staff, and contacts. They can be the first to get a scoop and the first in audience share, but television news is consumed hastily, and the print press stories, despite the social prestige they retain, are quickly forgotten. It is in this context that the online-only news outlets have concentrated not on producing original news, but on selecting and spreading stories from the traditional media.

## 4.3 Social and Cultural Diversity

### 4.3.1 Sensitive Issues

Sensitive matters have changed with social evolution itself. Ten years ago, homosexuality, AIDS, abortion, or same-sex marriages were sensitive matters, but reports about these topics are nowadays everyday occurrences. Other sensitive issues are terrorism, languages, and religion. With regard to terrorism, it should be recalled

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180. See [http://www.antena3.com/noticias/ciencia/ingeniero-holandes-consigue-volar-como-pajaro-alas-impulsadas-sus-brazos\\_2012032000168.html](http://www.antena3.com/noticias/ciencia/ingeniero-holandes-consigue-volar-como-pajaro-alas-impulsadas-sus-brazos_2012032000168.html) (accessed 1 April 2012); <http://blogs.lainformacion.com/futuretech/2012/03/20/un-ingeniero-holandes-hace-realidad-el-sueno-de-volar-como-un-pajaro-con-unas-alas-impulsadas-por-su-fuerza-muscular/> (accessed 1 April 2012); <http://www.entitulares.com/news/un-holandes-se-convierte-en-el-primero-hombre-en-volar-como-un-pajaro> (accessed 1 April 2012).

181. See <http://www.confidencialdigital.com>; [www.lainformacion.com](http://www.lainformacion.com); <http://www.elpluraldigital.com>; <http://www.libertaddigital.com>; <http://www.naciodigital.cat>; <http://www.e-noticies.com> (all accessed 26 January 2011).

that since 1968 Spain has been engaged in a separatist conflict with the Basque terrorist group, ETA. The only media shutdowns since the return of democracy have been those that have explicitly backed ETA's principles.<sup>182</sup>

With respect to the language issue, online digital media have been the preferred setting for the nationalist debate between the supporters of Castilian as the sole state official language and sectors defending the use of all the so-called autonomous (regional) languages in nationwide institutions.<sup>183</sup> The latest example has been the controversy over the appointment of regional language translators in the Senate Chamber.<sup>184</sup>

Immigration has introduced new religious practices thus far unknown in a society that mostly declares itself as Roman Catholic. Topics such as the building of new mosques for the Muslim community have given rise to controversy and have required a particular level of accuracy in news reporting. The Catholic religion was the subject of such concern on the occasion of Pope Benedict XVI's visits to Barcelona in 2010 and to Madrid in 2011. The CCMA, officially appointed for the media coverage, set up training sessions for journalists jointly with Barcelona's archdiocese before the event. In these sessions, professionals were taught the correct terminology, along with the hierarchies and customs of Catholic protocol.

The Basque Country conflict also had a coercive impact on journalism. Some national media outlets banned left-wing, pro-independence voices, which in turn boycotted certain outlets. For example, in 2007, "pro-Spanish" media were refused access to events of the left-wing pro-independence group, Basque Nationalist Action (Acción Nacionalista Vasca, ANV), which was outlawed the following year by the Spanish Supreme Court.<sup>185</sup> On similar lines, elected municipal members of the Basque pro-independence group Bildu refused to allow journalists from certain Spanish media to access council assemblies.<sup>186</sup>

### 4.3.2 Coverage of Sensitive Issues

Spain is the only country in the EU that does not have a country-wide independent regulatory authority (IRA) for the communications sector. There are currently two regional media regulators: the Catalonia Audiovisual Council (*Consell de l'Audiovisual de Catalunya*, CAC), set up by the Catalan parliament in 2000, and the Andalusian Audiovisual Council (*Consejo Audiovisual de Andalucía*, CAA) set up in 2005. These bodies issue recommendations on sensitive matters and warn the media if there is a possible case of breach of audience

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182. *Eguin* was closed in 1998 because of its links with ETA; *Egunkaria* (The Daily) was closed in 2003 but its managers were eventually absolved in April 2010. Although *Egunkaria* never reopened, it reappeared under a new name, *Berria*, in 2003.

183. Autonomous languages are those recognized as such by law in Galicia, Euskadi, Catalonia, Valencia, Asturias, Aragon, and the Balearic Islands.

184. See <http://www.lne.es/opinion/2011/02/06/confuso-reino-pinganillo/1029930.html>; <http://www.elcorreo.com/vizcaya/v/20110202/opinion/pinganillos-senado-babel-20110202.html>; [http://www.elpais.com/articulo/portada/precio/pinganillo/elpepusoceps/20110220elpepspor\\_2/Tes](http://www.elpais.com/articulo/portada/precio/pinganillo/elpepusoceps/20110220elpepspor_2/Tes) (all accessed 24 February 2011).

185. *El Mundo*, "Lizarta veta a El Mundo y otros medios por haber manipulado la realidad del país" (Lizarta vetoes El Mundo and other media because they have manipulated the country reality," 11 June 2011, at <http://www.elmundo.es/elmundo/2011/06/11/paisvasco/1307776489.html> (accessed 10 July 2012).

186. *Diario Vasco*, "Bildu impide a los periodistas acceder al Pleno de Lizarta" (Bildu impedes journalist to access to the town council," 11 November 2011, at <http://www.diariovasco.com/rc/20110611/mas-actualidad/nacional/bildu-impide-periodistas-acceder-201106112126.html> (accessed 10 July 2012).

rights. So far, the CAC has released three guides on information standards to be applied to immigration, violence against women, and teenagers,<sup>187</sup> while the CAA has launched guidelines on the news treatment of immigrants, youths, child advertising, sports violence, political news during electoral periods, media literacy, and news treatment of child murders.<sup>188</sup>

Overall, most Spanish media outlets respect the limits of political correctness in their editorial policies. They do not directly oppose particular groups, although debates are raised on controversial topics, such as the regulation of abortion, state aid to religious institutions, linguistic identity, and the question of political independence for certain regions of Spain.

There is a certain media unanimity in relation to sensitive social topics which transcend political ideologies, such as domestic violence, racism, and youth gang culture. However, positions are more radical on political, moral or religious issues, and online outlets are more likely to adopt or cover controversial positions than traditional outlets.<sup>189</sup>

### 4.3.3 Space for Public Expression

The web has become a space for public expression, although it is not necessarily a space for activism. In the field of political independence, for supporters in Catalonia or the Basque Country the internet and social media provide an easy opportunity to communicate and spread their ideas to citizens and social groups that might otherwise be out of reach.<sup>190</sup> The anonymity that the web offers or the impunity when voicing any type of opinion makes it possible for the most radical or even violent ideas to flourish in the comments sections of news sites, blogs, fora or social networking sites such as Facebook or Twitter. For instance, the live broadcast of a football match between teams representing antithetical nationalist positions gives rise to vitriolic and hateful speech online between respective supporters.

## 4.4 Political Diversity

### 4.4.1 Elections and Political Coverage

The Constitution's first article protects political pluralism, and the state has the exclusive responsibility for establishing basic media rules. This notwithstanding, a Central Electoral Committee (*Junta Electoral Central*), made up of eight magistrates from the Supreme Court and five law professors,<sup>191</sup> regulates political pluralism in the public media during electoral periods.

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187. See [http://premsa.gencat.cat/pres\\_fsvp/docs/2010/07/12/11/55/d63a40d6-baee-48fd-8a2a-b4dfc7a14051.pdf](http://premsa.gencat.cat/pres_fsvp/docs/2010/07/12/11/55/d63a40d6-baee-48fd-8a2a-b4dfc7a14051.pdf); [http://www.cac.cat/pfw\\_files/cma/recerca/quaderns\\_cac/Q12recomanacions.pdf](http://www.cac.cat/pfw_files/cma/recerca/quaderns_cac/Q12recomanacions.pdf) (accessed 10 December 2010); <http://www.observatorioviolencia.org/noticias.php?id=1130> (accessed 11 December 2010).

188. See <http://www.consejoaudiovisualdeandalucia.es/actividad/actuaciones/recomendaciones> (accessed 11 December 2010).

189. See <http://www.ara.cat/>; <http://www.naciodigital.cat/>; <http://www.vilaweb.cat> (all accessed 4 April 2012).

190. See <http://www.racocatalla.cat/>; <https://www.plataforma-llengua.cat/> (both accessed 4 April 2012).

191. See <http://www.juntaelectoralcentral.es/portal/page/portal/JuntaElectoralCentral/JuntaElectoralCentral/NormElec#campana> (accessed 24 February 2011).

The law sets out the criteria to broadcast free electoral messages as a right of political parties, but it does not establish criteria on the organization of information in public media newscasts. It is the Central Electoral Committee that decides which political news is propaganda and, as such, must fit so-called “blocks,” their time length being strictly measured depending on the number of votes and seats that each political party obtained in the previous elections. This legal interpretation can be explained by the political parties’ traditional uniform distrust of the public media.<sup>192</sup> The rule of proportion has been recently extended to commercial broadcasters by the Central Electoral Committee, in the face of stiff opposition from media firms.<sup>193</sup>

There is no specific legislation pertaining to online media regarding political information or propaganda, not even during election campaigns, although proportional media coverage according to number of votes or seats is inevitably replicated in news sites that depend on public service media for their material. Nor is there any legal provision regulating political pluralism on the web. Ease of internet access and low production costs have favored the appearance of digital news media linked to all political options. In this way, non-parliamentary ideologies, like republicanism,<sup>194</sup> anarchism<sup>195</sup> or separatism,<sup>196</sup> which do not have any traditional news media close to their standpoints, have an abundant presence on the web. Online news has also become increasingly polarized along parliamentary political lines in recent years, with the emergence of several news sites explicitly for or against particular parties. This is the case for Libertad Digital,<sup>197</sup> blatantly opposing the PSOE party, or El Plural Digital,<sup>198</sup> which attacks the PP party currently in office.

#### 4.4.2 Digital Political Communications

The extensive use of new technologies by political parties in recent years has modified the way journalists access political information. Following “Obama’s model,” imposed by the team of the Democrat candidate in the 2008 U.S. presidential elections, all Spanish politicians have plunged into using digital tools such as blogs, Twitter or Facebook to support their electoral campaigns.<sup>199</sup> The online presence of politicians and parties has increased since the 2009 regional Basque elections, through the Catalan election in November 2010, to the latest Spanish general election in 2011.<sup>200</sup> In many cases, however, these sites are simple electoral strategies, dying out the day after the elections.

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192. N. Almirón, “Els blocs electorals als mitjans públics de l’Estat espanyol: una excepció a Europa” (Election slots on public media in Spain: an exception in Europe), *Quaderns del CAC* 34, XIII(1) (June 2010).

193. *El Mundo*, “Las TV privadas recurrirán la imposición de los bloques electorales” (Private broadcasters will appeal against mandatory election slots,” 5 May 2011, at <http://www.elmundo.es/elmundo/2011/05/05/comunicacion/1304594897.html> (accessed 15 July 2011).

194. See <http://www.larepublica.es> (accessed 15 January 2011).

195. See <http://www.kaosenlared.net> (accessed 15 January 2011).

196. See <http://www.racocatala.cat> (accessed 15 January 2011).

197. See <http://www.libertaddigital.com> (accessed 15 January 2011).

198. See <http://www.elpluraldigital.com> (accessed 15 January 2011).

199. P. Oriol-Costa, “La utilització d’internet per part de Barack Obama transforma la comunicació política” (The use of internet by Barack Obama transforms political communication), *Quaderns del CAC* 33, XII (December 2008).

200. See <http://cronicasmallorca.com/cuanto-como-y-de-que-escriben-nuestros-politicos-en-sus-blogs>; [http://www.escolar.net/wiki/index.php/Blogs\\_pol%C3%ADticos](http://www.escolar.net/wiki/index.php/Blogs_pol%C3%ADticos); <http://periodistas21.blogspot.com.es/2005/09/politicos-en-el-blog.html> (all accessed 4 April 2012).



Among the Spanish political elite there is a widely held belief that those who are not online do not exist. However, the incorrect use of new technologies has caused grave errors of judgment in some political careers, such as the socialist deputy's Juan Luis Rascón, who criticized his own party on his blog in December 2010;<sup>201</sup> or that of Miguel Ángel Martín, of the Socialists' Party of Catalonia (*Partit dels Socialistes de Catalunya*, PSC) and holding a post in Barcelona's municipality, who seriously insulted the director general of the CCMA<sup>202</sup> in March 2010.

Other than the bad usage of particular politicians' profiles, we also find errors in Web 2.0 campaigns themselves: social network users were angry in October 2011 when the PP asked its affiliates and sympathizers to hand over their Facebook personal pages and Twitter profiles to the party to publish corporate news. Within just a few hours, a movement against that proposal, identified by the hashtag #prostituit, hit thousands of Twitter users. The PP thus achieved the unintended contrary effect: a negative online reputation. Another similar mistake was made by the team in charge of the campaign of PSOE's candidate in the November 2011 general election, Pérez Rubalcaba. In order to boost traffic on the candidate's social networking pages, a reward system was established: points were given to users who registered on the website Rubalcaba.es and shared information on the candidate through Facebook and Twitter. Using the hashtag #puntos Rubalcaba, social media users succeeded in publicly protesting at what they saw as bad ethical practice online.<sup>203</sup>

In spite of this, politicians' and political parties' blogs or Twitter and Facebook accounts have become an indispensable source in newsrooms. A recent example has been the coverage of the November 2011 general election campaign, when several online media were set up to collect and arrange all party-generated data, agenda events or comments.<sup>204</sup> During the election evening, TVE's website traffic was 20 times higher than on an average day. *El País* set up the initiative @Resultados20N, a Twitter profile with the paper's headlines. The state-owned press agency EFE created its own electoral TV channel on YouTube.<sup>205</sup>

The news avalanche triggered by the online presence of Spanish politicians, especially during election periods, has also been covered by traditional media in their digital sections. A good example was Lavanguardia.es, from the old broadsheet title *La Vanguardia*, during the last Catalan elections in November 2010. The site collected and constantly updated online pieces of news and comments.

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201. See <http://www.diputadorascon.com> (accessed 15 January 2011).

202. See <http://www.racocatala.cat/noticia/22287/allau-critiques-insults-psc-terribas-lentrevista-montilla> (accessed 16 January 2011).

203. See <http://www.juanjoibanez.es/2011/10/06/el-prostituit/>; <http://fernandezdelcampo.wordpress.com/2011/10/25/nuestros-politicos-en-la-red-del-prostituit-a-puntosrubalcaba/> (all accessed 4 April 2012).

204. See <http://electoralia.cat>; <http://es.elecciones-2010.com>; <http://www.eleccionesdosmildeu.cat>; <http://www.elecciones.es/ca>; <http://www.tuiter.net/ca/u/28n>; <http://electweet.cat>; <http://twitter.com/Elecciones28N#> (all accessed 28 November 2010).

205. See <http://www.rtve.es/noticias/elecciones/generales>; <http://www.elmundo.es/elecciones/elecciones-generales>; <http://resultados.elpais.com/elecciones/generales.html>; <http://www.abc.es/especiales/elecciones-municipales-autonomicas>; <http://www.publico.es/elecciones-generales-2011>; <http://www.lavanguardia.com/politica/elecciones-generales-2011/index.html>; <http://www.youtube.com/elecciones2011?feature=inp-pr-elecc> (all accessed 4 April 2012).

## 4.5 Assessments

Digitization has changed journalists' working practices, but it has not brought about an improvement in quality. We face a professional paradox: technologies and resources are available to journalists, but they cause a deterioration in their conditions of employment, which puts quality at risk. Salaries are lowered to cut down on production costs, and multi-tasking professional profiles are in demand instead of those permitting specialization. The process overloads journalists' work practices and allows the exercise of more editorial pressure.

There are more online media, both traditional and originating from digital-only media, which has resulted in a proliferation of opinions, the representation of social minorities, and greater political pluralism.

However, digital media from digital-only origins promote superficial news treatment, limited by an ideological partisanship shared with the audience. In the Spanish online media world, interpretation and opinion are more important than facts and data.

However, internet user trends only reflect that part of Spanish society which has access to the technology required and uses social media. Spain has a real digital divide in online media consumption, and there is a substantial difference in the number of readers of the big media press online and that of digital dailies with a low market penetration.

# 5. Digital Media and Technology

## 5.1 Broadcasting Spectrum

### 5.1.1 Spectrum Allocation Policy

The radio spectrum is planned and managed by the Department of Telecommunications and Information Society (*Secretaría de Estado de Telecomunicaciones y para la Sociedad de la Información*, SETSI), which in turn is controlled by the Ministry of Industry. After 2003, however, the law provided for a specific spectrum regulator, the State Radiocommunications Agency (*Agencia Estatal de Radiocomunicaciones*).<sup>206</sup> Although included again in LGCA 2010, this regulator was finally discarded and its functions were assumed by SETSI in 2012.<sup>207</sup>

The regime of broadcasting spectrum frequency assignments mirrors the country's decentralized political structure. Licenses are granted through public tenders by governmental authorities at two levels: country-wide (by the central government) and at regional/local level (by Autonomous Communities). This principle was extended from analog television to DTT regulation from the very beginning, when a budgetary law first mentioned it in 1997.<sup>208</sup> Two qualifications should be noted: first, state-wide analog broadcasters have been automatically recognized by law as digital licensees, and their licenses are indeed automatically renewed according to LGCA 2010. Second, regional authorities are limited by the technical spectrum plans fixed by the central state government.

Prior to 2005, the conservative PP government had given preference to a subscription DTT model as a means to develop digital television. Under the framework set up in 1998 by the first DTT Technical Plan (*Plan Nacional de la Televisión Digital Terrenal*),<sup>209</sup> the newly established subscription television platform Quiero TV was favored. Licensed in 1999, it was awarded three and a half multiplexes (14 digital channels). It started

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206. Law 32/2003 on Telecommunications, *BOE* no. 264, 4 November 2003, Art. 47.

207. Royal Decree-Law 13/2012, transposing electricity and gas internal market directives and the electronic communications directive, and adopting measures for the correction of deviations due to differences between costs and revenues in the electric and gas sectors, final provision no. 6. *BOE* no. 78, 31 March 2012.

208. Law 66/1997 on fiscal, administrative and social measures, *BOE* no. 313, 31 December 1997, additional provision 44.

209. Royal Decree 2169/1998, on the Digital Terrestrial Television National Technical Plan, *BOE* no. 248, 16 October 1998.

operations in 2000 and disappeared in 2002, because of a highly competitive subscription television market dominated by satellite platform Canal Satélite Digital, controlled by PRISA's Sogecable, and a strong second player, Via Digital, backed by Telefónica and RTVE.

Two newer FTA players, Net TV and Veo TV, were also awarded one digital channel each in 2000. At that time, few television sets were ready to receive these new channels, and their audience impact was symbolic. They were both controlled by print press groups. Net TV was owned by Prensa Española, which in 2002 merged with Correo to form Vocento, one of the big Spanish multimedia groups. Veo TV was owned by El Mundo-UNEDISA and Recoletos, which merged in 2007 to form Unidad Territorial and became part of the RCS media group. Finally, RTVE and the private analog operators Telecinco, Antena 3, and Canal+ had to share the same multiplex. RTVE obtained two digital channels for its general-interest channels TVE 1 (now La 1) and La 2, and the others were allocated one for each of their flagship channels: FTA Telecinco and Antena 3 and premium Canal+, respectively. For FTA operators, this situation was highly unsatisfactory (see section 7.2.3 for comments on political clientelism in Spanish broadcast licensing since 2000).

In 2005, the new PSOE government shifted to a FTA DTT model, notably improving RTVE's status, but also allowing for the expansion of digital programs for all private operators due to the channel reallocation of the failed digital subscription television platform Quiero TV. The new DTT Technical Plan, passed in July (hereafter DTT 2005) established an interim and a post-switch-off scenario:<sup>210</sup> it accorded one exclusive multiplex to RTVE, to be extended to two after the switch-off deadline, while private operators could obtain up to two additional digital channels on condition that they promoted DTT by financing Impulsa TDT (see section 1), investing in technology and publicity, and developing innovative and interactive content.<sup>211</sup> In November,<sup>212</sup> the number was thus raised to: three channels for each historical operator (Antena 3, Telecinco, and Canal+) and two for late entrants Net TV and Veo TV. The Government also decided to give a sixth license (two more digital channels) to a new analog player, La Sexta, having as its main stakeholder a group of independent production television companies led by Mediapro and Globomedia.

Finally, DTT 2005 allowed private broadcasters to manage one multiplex each after the switch-off in April 2010.<sup>213</sup> A Royal Decree passed immediately before the switch-over deadline (hereafter RD 2010) finally confirmed this.<sup>214</sup>

As far as regional and local DTT markets are concerned, RD 2010 set aside two multiplexes for each Autonomous Community. In the case of local markets, digitization was seen as an opportunity to regulate a sector functioning (and growing) illegally despite the introduction of the first local television statute in 1995 (see section 2). Following the 2002 budgetary law that laid the foundations for local DTT regulation,

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210. Royal Decree 944/2005 on the Digital Terrestrial Television National Technical Plan, *BOE* no. 181, 30 July 2005, additional provisions 2 and 3.

211. Royal Decree 944/2005, transitory provision 4.

212. Through an agreement of the Council of Ministers, issued 25 November 2005 and published as a resolution in *BOE*, 5 December 2005.

213. Royal Decree 944/2005, additional provision 3.

214. Royal Decree 365/2010 regulating the assignment of digital terrestrial television multiplexes after the end of analog terrestrial television broadcasts, *BOE* no. 81, 3 April 2010.

the mandatory technical plan was finally introduced in 2004 (National Technical Plan for Local Terrestrial Television, *Plan Técnico Nacional de la Televisión Terrestre Local*, hereafter DTT 2004). Through these, more than 200 local areas were specially designated for the allocation of multiplexes.<sup>215</sup>

Licensees can be public, private, or TS entities. But they do not operate under equal conditions. At least one channel in each multiplex is set aside for public service broadcasters managed by municipalities.<sup>216</sup> And, as Ángel Badillo reminds us, spectrum allocation must prioritize commercial exploitation.<sup>217</sup> In this way, Mr Badillo argues, DTT regulation has made life almost impossible for TS media because they have to compete on equal terms with local commercial candidates.<sup>218</sup>

Almost all the Autonomous Community governments have allocated their licenses. Overall, according to the data from Mr Badillo, as of January 2011 the number of licensed DTT channels amounted to 804 at regional and local levels in Spain: 37 were regional public broadcasters' channels, 33 regional private, 92 local public, and 642 local private ones.<sup>219</sup> However, not all local licensees are operating, and some small operators linked with TS entities or underground movements are broadcasting digitally in Spanish major cities without a license.

This crowded and confused DTT market explains why in May 2008, a few months after the European Commission first announced the need for a common EU approach to allocating the digital dividend, the Government said this would have little if any impact on the Spanish economy.<sup>220</sup> DTT 1998 and DTT 2004 set the 470–862 MHz band exclusively for broadcast purposes, and the freed frequencies would be exploited mainly by TV broadcasters claiming their license rights.

But, in the midst of the economic crisis, local markets have witnessed some operators returning their licenses, PRISA being the most striking example.<sup>221</sup> The Government has also had to face lobbying by telecoms and mobile operators, along with persistent criticism by CMT. The former claimed a quarter of the digital dividend,<sup>222</sup> whereas in a 2009 report on RTVE's new financial regime, the regulator urged that the dividend

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215. Following Art. 109 of Law 53/2002 on fiscal, administrative, and social measures, the plan was adopted through Royal Decree 439/2004 on the Local Digital Television Technical Plan, *BOE* no. 85, 8 April 2004. It was amended by Royal Decree 2268/2004, *BOE* no. 292, 4 December 2004.

216. Law 10/2005 on urgent measures to foster digital terrestrial television, on the liberalization of cable television and on the promotion of pluralism), *BOE* no.142, Art. 3, section 3. It amends Law 41/1995.

217. Law 56/2007 on measures to promote the information society, *BOE* no. 312, 29 December 2007, provision 18.

218. A. Badillo, *Modelos de clivaje público-privado en la televisión subnacional en España* (Models of public private cleavage in regional television in Spain), pp. 13, 79 (hereafter Badillo, *Modelos de clivaje público-privado*).

219. Badillo, *Modelos de clivaje público-privado*, p. 76.

220. *Expansión*, "El gobierno no dará más frecuencias a las operadoras" (The government will not give more frequencies to telecoms), 30 May 2008, at <http://www.expansion.com/2008/05/30/empresas/telecomunicaciones/1129335.html> (accessed 2 April 2011).

221. *ABC*, "PRISA se desprende de todas sus licencias de TDT, tanto locales como autonómicas" (PRISA gets rid of all its DTT licenses, both local and regional), 31 December 2009, at <http://www.abc.es/20091231/medios-redes-radio-tv/prisa-desprende-todas-licencias-20091231.html> (accessed 2 April 2011).

222. *Expansión*, "Los móviles y las TV quieren ocupar el mismo espacio" (Mobile operators and TV broadcasters want to occupy the same space), 10 June 2008, at <http://www.expansion.com/2008/06/10/empresas/medios/1133337.html>; *Cinco Días*, "Telefónica y la industria del móvil reclaman el reparto del 'dividendo digital'" (Telefónica and mobile industry demand the distribution of the "digital dividend"), 18 February 2009, at [http://www.cinco dias.com/articulo/empresas/Telefonica-industria-m...eclaman-reparto-dividendo-digital/20090218cdscdiemp\\_7/?view=print](http://www.cinco dias.com/articulo/empresas/Telefonica-industria-m...eclaman-reparto-dividendo-digital/20090218cdscdiemp_7/?view=print) (accessed 2 April 2010).

should be used for advanced mobile broadband services, not only to improve Spain's "information society" indicators but also to compensate telecoms operators for the tax to finance RTVE.<sup>223</sup>

In June 2009, the Minister of Industry finally announced the freeing up of a 800-MHz sub-band for advanced wireless telecoms services<sup>224</sup>—the digital dividend waveband. RD 2010 subsequently published the need for a DTT frequency reallocation before 1 January 2015 (sub-band 790–862 MHz).<sup>225</sup> Under a new Decree Law<sup>226</sup> (hereafter the Radio Spectrum Decree 2011), the digital dividend licenses were auctioned for the most part in two phases during 2011. They were part of a frequency package of 310 MHz in different bands: 800 MHz (where the digital dividend lies), 2.6 GHz, 900 MHz, and 1,800 MHz.

The PSOE government expected to obtain up to €2,000 million in a process that culminated in November 2011 and benefitted the three most important telecom operators (Telefónica, Vodafone, and France Telecom). The aim was to use €800 million to finance the cost of the changes to be made in transmission and reception equipment due to the forcible reallocation of digital dividend frequencies.

However, in the middle of the economic crisis, the new PP government decided to use the bulk of the proceeds to finance the growing public deficit.<sup>227</sup> In order to reduce the new migration costs for broadcasters no longer covered by the state, the Ministry of Industry proposed in 2012 that commercial television operators should relinquish half their frequencies. Faced with UTECA's radical opposition, a second offer softened the Government's proposal and was eventually accepted. Made public in late August, the agreement consists of reducing the broadcasting spectrum while retaining one multiplex for each commercial operator. According to the Government, progress in DTT compression techniques made this spectrum reduction possible. Broadcasters and policymakers have given assurances that the number of channels will not be affected, and that UTECA remains committed to developing HD television and interactive services. The Government announced this would form part of a new DTT plan, which as of early October 2012 had not been published, and negotiations continue in fits and starts.<sup>228</sup>

The Government has assured consumers that the agreement reduces the number of residential buildings affected by frequency relocation from 1.5 million to 1.2 million. This notwithstanding, the actual cost of the change has not been revealed yet. Consumers' associations are unwilling to pay more on account of

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223. CMT, *Informe* no. RO 2009/747, "Informe a la vicepresidencia primera del gobierno y ministerio de la presidencia sobre el anteproyecto de ley de financiación de la corporación de radio y televisión española" (Report to the first vice-president's office and the prime minister's office on RTVE Funding Bill), Barcelona, 21 May 2009, at [http://www.cmt.es/es/resoluciones/18-2009/PRO\\_4758472/RE-2009-5-21-8-1.htm](http://www.cmt.es/es/resoluciones/18-2009/PRO_4758472/RE-2009-5-21-8-1.htm) (accessed 2 April 2010).

224. Parliamentary Commission on Industry, Tourism and Commerce, record of proceedings no. 161, 2 June 2009, at [http://www.congreso.es/public\\_oficiales/L9/SEN/DS/CO/CS0161.PDF](http://www.congreso.es/public_oficiales/L9/SEN/DS/CO/CS0161.PDF) (accessed 2 April 2010).

225. Royal Decree 365/2010, Art. 2.

226. Royal Decree 458/2011 on measures on radio spectrum aimed at the development of the digital society), *BOE* no. 5936, 2 April 2011.

227. Ministry of Industry, Tourism and Agriculture, "El gobierno cierra la licitación del espectro radioeléctrico con unos ingresos de 2000 millones para el tesoro público" (The government closes the radio spectrum tender with 2,000-million revenue for the Treasury), press release, at <http://www.minetur.gob.es/es-es/gabineteprensa/notasprensa/documents/npcierrelicitacion101111.pdf> (accessed 21 August 2012).

228. Lamonclosa.gob.es, "Aprobado el plan de impulso de la TDT y de la Innovación tecnológica" (The government approves the plan for the promotion of DTT and technological innovation), press note, 24 August 2012, at [http://www.lamonclosa.gob.es/ConsejodeMinistros/Referencias/\\_2012/refc20120824.htm#TDT](http://www.lamonclosa.gob.es/ConsejodeMinistros/Referencias/_2012/refc20120824.htm#TDT) (accessed 27 August 2012).

the low quality and little diversity of the DTT offer. Installers, represented by the National Federation of Telecommunications Installers (*Federación Nacional de Instaladores de Telecomunicaciones*, FENITEL), estimate that each building would have to pay €400 on average, €20 per home.<sup>229</sup>

The reduction of DTT frequencies is backed by the main satellite operator, SES Astra, which, as of November 2012, maintained a three-year conflict with the Government at EU level for having allegedly favored the DTT platform. More specifically, in May 2009 the satellite operator's Spanish subsidiary had submitted a complaint to the EC's Directorate-General for Competition. The central government had granted loans to the Autonomous Communities so they could put to tender the provision and installation of digital television broadcast equipment covering a further 2.5 percent of the Spanish population, that is, the increase from 96 percent to 98.5 percent. Astra argued that these loans constituted illegal state aid because they had not been notified to the European Commission. It further argued that Abertis, the monopolistic operator in the television signal distribution market (see section 5.2.3), won the majority of the tenders, and this distorted competition with satellite operators. In response, the central government argued, among other things, that these loans were not to be considered state aid because they had been offered in competitive public tenders, and that digitizing existing analog platforms was—thanks to economies of scale—more efficient than using satellite platforms.<sup>230</sup>

### 5.1.2 Transparency

The Spanish radio spectrum allocation results from international agreements and the latest EU recommendations and decisions on spectrum management.<sup>231</sup> Consequently, mobile communications and television frequency bands are established by supranational entities. It is true, however, that there is a margin of discretion left to the national authorities, especially over terms and allocation methods. This margin is wider when the frequencies are distributed in certain bands among commercial operators.

The allocation of television and telecoms spectrum licenses has traditionally been made through public tenders. This system is less transparent than auctions, which make it possible to know the market valuation of spectrum. However, auctions do not take account of other social realities, namely the social side-effects of the industrial activity to be taken up. In the Spanish case, both television and mobile communications public tenders have been denounced as lacking transparency and taken to court, normally by those excluded. Even so, Spanish courts have confirmed the majority of allocations.<sup>232</sup>

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229. See *El País*, “El descontrol de la TDT” (The Lack of DTT) 14 July 2012, at [http://sociedad.elpais.com/sociedad/2012/07/14/actualidad/13422291401\\_125658.html](http://sociedad.elpais.com/sociedad/2012/07/14/actualidad/13422291401_125658.html) (accessed 10 October 2012).

230. “STATE AID—SPAIN. State aid C23/10 (ex NN 36/10)—Aid for the deployment of digital terrestrial television (DTT). Invitation to submit comments pursuant to Art. 108(2) of the TFEU,” *Official Journal of the European Union*, C337/17, 14 December 2010.

231. European Commission Recommendation 2009/848/EC, on “Facilitating the release of the digital dividend in the European Union,” *Official Journal of the European Union*, L308/24, 24 November 2009; European Commission decision of 6 May 2010 on harmonised technical conditions of use in the 790–862 MHz frequency band for terrestrial systems capable of providing electronic communications services in the European Union, *Official Journal of the European Union*, L117/95, 11 May 2010.

232. *El País*, “La Audiencia rechaza suspender de forma cautelar el concurso del móvil UMTS” (Spanish National High Court refuses to suspend as a precautionary measure the UMTS public tender), 10 March 2001, at [http://elpais.com/diario/2001/03/10/economia/984178801\\_850215.html](http://elpais.com/diario/2001/03/10/economia/984178801_850215.html) (accessed 10 April 2012).

Television broadcasters that participate in the license tenders regard spectrum issues as secondary to other priorities in their business models, such as editorial content and scheduling. For telecoms operators, the possession and management of certain frequencies and their specific use are key factors determining profitability, and hence they also determine the scale of the offer that they can make in a public tender.

Differences continue in the fiscal policy applied to each sector. Telecoms operators pay an initial fee when submitting their offers for a mobile telephony license, and they also have to pay an annual tax for radio spectrum usage. The latter, they complain, is excessive and discriminatory in comparison with broadcasters. According to sources in the telecoms sector, 90 percent of the €315 million levied by the state through the radio spectrum tax comes from telecoms operating in the mobile telephony market, and only 10 percent from television broadcasters. They maintain that the mobile telecoms industry has paid disproportionately for a segment of spectrum that is less valuable than the one used by TV operators.<sup>233</sup>

As mentioned above, some radio spectrum frequencies were auctioned in 2011 for the first time in Spain, even though auctioning has been a popular system in other Western European countries since the spread of 3G telephony in the mid-1990s. Prior to the auctions, a series of frequency blocks were apportioned; starting prices and minimum revenues to be obtained by the state were established, and a list of the accepted bidders drawn up. In the case of the band including the digital dividend (800 MHz), six blocks were auctioned, each with two 5 MHz sub-bands. The starting price per block was €170 million and the minimum expected revenue was €1,020 million. The obligations for the winning bidders are such that before the end of 2014 these frequencies must be operative, although they have a 2020 deadline to guarantee a 90 percent coverage of areas with less than 5,000 inhabitants with a speed of at least 30 megabits per second.<sup>234</sup> It is in this band that 4G mobile telephony or long-term evolution (LTE) will be deployed.

In the 900 and 1,800 MHz bands, the Radio Spectrum Decree 2011 also provided that technological neutrality should be respected, upholding freedom for operators to use different transmissions technologies (GSM or UMTS in different bands, a process known as refarming) or another system that allows for the coexistence with GSM systems. In the 2.6 GHz any technology can be used for electronic communications services.

The new decree additionally provides for the possibility of reselling the spectrum, so long as the operation takes place two years after the acquisition and establishes some limits to the concentration of spectrum ownership.

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233. V. Sanchidrián, "Las 'telcos' pagan 200 veces más que las 'teles' por el uso de frecuencias" (Telcos pay 200 more than TV stations for the use of frequencies), *Vozpopuli*, 23 June 2012, at <http://vozpopuli.com/empresas/10569-las-telcos-pagan-200-veces-mas-que-las-teles-por-el-uso-de-frecuencias> (accessed 10 July 2012).

234. Royal Decree 458/2011, Art. 6.



### 5.1.3 Competition for Spectrum

The conflict between the audiovisual and the telecoms sectors over the best bands in the spectrum has been already described (section 5.1.2). However, the lobbying power of telecoms operators and the the cash-strapped state's need for extra revenues point to a possible weakening of the broadcasters' position. An expert group has recommended to the Government that the 700-Mh band should be aimed at a new digital dividend, taking into account a range of issues including the investment plans of potential bidders; technological neutrality; and the homogenization of spectrum fees paid by broadcasters and telecoms operators.<sup>235</sup>

In order to avoid possible conflicts internal to the broadcast industry, most national TV operators have assigned the management of their multiplex to a third-party telecoms operator. However, some conflicts have risen between local TV operators in the Canary Islands and Madrid, usually because TV operators had not agreed on the third party responsible for the management of the multiplex.<sup>236</sup> In these cases, the CMT has mediated to protect the rights of minority TV operators within the multiplex. The CMT believes that if no agreement can be reached on who should manage the multiplex, recruitment should be transparent and follow a procedure that allows different offers from interested parties. In addition, the CMT considers that bids submitted must be transparent and non-discriminatory, differentiating prices for different services offered and not discriminating between TV operators. Furthermore, if the multiplex manager is a company owned by any of the TV operators that share the multiplex, the CMT will monitor compliance with these principles more closely, and may exert more control over the prices of tenders and supervise transfers within the group. Finally, in order to safeguard competition the CMT holds that contracts signed between the multiplex manager and the TV operator should not exceed five years.<sup>237</sup>

Overall, broadcasters are much more concerned about the costs related to frequency reallocation, as part of the Government's digital dividend strategy (see section 5.1.2). Some state-wide smaller broadcasters, such as Intereconomía, started to change frequencies a second time in September 2012, after an initial change in June 2012. Some commentators have predicted a loss of 20 percent of their audience as a result of the imminent change.<sup>238</sup> Further costs are associated with the simulcast in two different frequencies during the transition period before freeing the 800-Mhz band.

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235. High Level Expert Group on the Spanish Digital Agenda (*Grupo de Expertos de Alto Nivel de la Agenda Digital para España*), "Informe de recomendaciones" (*Recommendations Report*), 18 June 2012, p. 11, at <http://www.ontsi.red.es/ontsi/sites/default/files/informe-recomendaciones-ade.pdf> (accessed 10 July 2012).

236. CMT resolution of 14 February 2008, at [http://www.cmt.es/c/document\\_library/get\\_file?uuid=224a6c46-9636-4bd9-9070-bd581d6bd-0c0&groupId=10138](http://www.cmt.es/c/document_library/get_file?uuid=224a6c46-9636-4bd9-9070-bd581d6bd-0c0&groupId=10138) (accessed 10 July 2012).

237. CMT, *Informe anual 2011*, p. 167.

238. Bloggin Zenith, "Entrevista a Merche Moreno, Directora de Compra Medio Televisivo en Zenith" (Interview with Merche Moreno, Zenith's Manager of Broadcasting Media Purchases), 24 July 2012, at <http://blogginzenith.zenithmedia.es/entrevistas/la-resintonizacion-no-tendra-ningun-beneficio-para-los-teleespectadores-solo-perjuicios-entrevista-a-merche-moreno-compra-medio-television-en-zenith> (accessed 25 July 2012).

## 5.2 Digital Gatekeeping

### 5.2.1 Technical Standards

As one of the countries with a presence in the Digital Video Broadcasting Project<sup>239</sup> from its beginnings in the early 1990s, Spanish digital broadcasters have adopted DVB transmission standards for cable (DVB-C), satellite (DVB-S), and terrestrial (DVB-T) platforms. In combination with DVB, the MPEG-2 compression standard is in use for standard definition (SD) television. Since the process has been industry-led, there has been no broad public debate on standards. DVB Project consultants put forward three main supporting arguments: first, they are approved by European standardization bodies; second, they respond to broadcasters' needs; and third, the economies of scale due to their worldwide expansion allows for attractive retail prices.<sup>240</sup> The public interest is then addressed on the grounds of better options for people considered as consumers.

Spanish legislation only specified high definition (HD) television standards in May 2010, with the HDTV Decree: it established DVB-T for transmission and H.264/MPEG-4 AVC for signal compression, subject to modifications according to technological evolution. In line with DTT 2005,<sup>241</sup> the decree does not make HD broadcasts mandatory,<sup>242</sup> but it does make it compulsory for manufacturers to include HDTV receivers in sets with screens over 21 inches.<sup>243</sup> This lack of legal obligation has contributed to the privilege given by Spanish broadcasters to standard definition channels, concerned about both the loss of channels and high HD costs.<sup>244</sup> Consumers, however, have been very attracted by HD equipment, despite the confusing and scanty public information about which sets were truly prepared; the market research company GfK predicted 11.5 million HDTV sets in Spain by the end of 2011.<sup>245</sup> (According to an AIMC survey, 33.6 percent of Spanish households—over 5 million—owned an HD TV set by the end of 2011.)<sup>246</sup> However, the quality of HD broadcasts is quite low due to a low bit rate caused by crowded DTT multiplexes. This low quality is acute in commercial broadcasts, whereas quality levels are generally considered acceptable in public service broadcasts.<sup>247</sup> The later Plan approved by the Government in August 2012 (see section 5.1.1) might mark the start of a shift in favor of HD television, although the economic crisis remains a hindering factor.

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239. The Digital Video Broadcasting Project is an industry-led consortium of around 250 broadcasters, manufacturers, network operators, software developers, regulatory bodies, and others, aimed at designing technical standards for the delivery of digital television and data services.

240. Telephone interview with Jesús Seseña, Doctor in Radiocommunications, 13 April 2011.

241. Royal Decree 944/2004, additional disposition 5.

242. Royal Decree 691/2010, Arts 2 and 3.

243. Royal Decree 691/2010, additional provision.

244. A. Casero and J. Marzal, "Las políticas de comunicación ante la implantación de la TDT en España. Balance crítico y retos pendientes" (Communication policies before the introduction of DTT in Spain. Critical assessment and challenges ahead), *Sphera Pública*, No. 9, 2009, Universidad Católica San Antonio de Murcia, p. 110.

245. Silicon News, "La HDTV se está convirtiendo en una commodity" (HDTV is turning into a commodity), 11 November 2010, at <http://www.siliconnews.es/2010/11/11/hdtv-convirtiendo-commodity> (accessed 13 April 2011).

246. AIMC, *Marco General de los Medios en España 2012*, p. 64.

247. V. Navarro, "Midiendo la calidad de la TDT en alta definición en España" (Assessing HD DTT quality in Spain), 12 June 2012, at <http://www.vicente-navarro.com/blog/2012/06/12/midiendo-la-calidad-de-la-tdt-en-alta-definicion-en-espana/> (accessed 10 July 2012).

The second generation of the DVB standard for terrestrial television (DVB-T2) is not a priority for the Ministry of Industry in the short run, on the grounds that all broadcast networks being deployed use DVB-T and there is no spectrum capacity left for new television services.<sup>248</sup> The DVB Project takes the opposing view that it will be needed for more efficient spectrum exploitation when HDTV broadcasts grow. Meanwhile, DVB's second-generation standards are available to Spanish pay-TV subscribers: PRISA's satellite platform Digital+ uses DVB-S2 in its HD offer and cable operator Ono plans to use DVB-C2 in the near future.<sup>249</sup>

As far as interactive television services are concerned, there is agreement among experts on the Spanish failure of DVB's Multi-Home Platform (MHP) standard. Unlike HDTV, the Spanish law has not supported it. Neither has the legislation sufficiently promoted additional information society services, other than its development being considered a condition set in DTT 2005 for commercial broadcasters to obtain more digital channels following digital switch-over (see section 5.1). But responsibility, media analysts say, is shared by retail sellers not putting sufficient MHP decoders on the market, along with interactive content producers and consumers not having the motivation to either design or use applications.<sup>250</sup> Again, the new Plan approved in August 2012 might be the first step towards relaunching interactive services in Spain (see section 5.1.1).

The DVB-H standard has been used in more than 20 pilot tests on mobile television, Spain being the European country with the highest number of mobile television devices, according to Impulsa TDT Observatory.<sup>251</sup> The standard was explicitly included in DTT 2005<sup>252</sup> and removed a year later,<sup>253</sup> although LGCA 2010's reference to mobile television states the need to comply with EU standards.<sup>254</sup> Its progress is being thwarted by the uncertainty surrounding the mobile television business model<sup>255</sup> and the ensuing scarce spectrum demand; mobile phone operators are already offering access to internet television through their 3G networks, and broadcasters are focussed on their current SD or in the roll-out of HD broadcasts.<sup>256</sup>

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248. Panorama Audiovisual, "DVB-T2 is not on Spanish agenda" (EL DVB-T2 no está en la agenda en España), November 2010, at <http://www.panoramaaudiovisual.com/es/2010/11/12/el-dvb-t2-no-esta-en-la-agenda-en-espana> (accessed 13 April 2011).

249. Mundoplus.tv, "DVB-T2 prosigue su implantación en diversos mercados europeos y mundiales" (DVB-T2 continues its implementation in several European and international markets), September 2010, at [http://www.mundoplus.tv/noticias/?seccion=tv\\_digital&cid=8157](http://www.mundoplus.tv/noticias/?seccion=tv_digital&cid=8157) (accessed 13 April 2011).

250. R. Franquet and X. Ribes, "Los servicios interactivos: Una asignatura pendiente de la migración digital" (An unresolved matter of digital migration), *Télos* 84 (June–September 2010).

251. See <http://www.televisiondigital.es/Movil/EnEspana/Paginas/TVMovilEspana.aspx> in Impulsa TDT site (accessed 13 April 2011).

252. Royal Decree 944/2005, additional provision 2.

253. Royal Decree 920/2006, approving the general rules on cable radio and television services provision, *BOE* no. 210, 2 September 2006, final provision 2.

254. LGCA 2010, Art. 34.

255. M. Roel, "Mobile DTT in Spain: certainties and uncertainties in a changing scenario" (TDT en movilidad en España: certezas e incertidumbres en un escenario cambiante), *Razón y Palabra* 75 (February–April 2011).

256. *Expansión*, "Government shelves mobile TV frequencies due to lack of demand" (El Gobierno aparca las frecuencias para TV móvil por falta de demanda), 22 May 2010, at (<http://www.expansion.com/2010/05/12/empresas/medios/1273674055.html?a=b25bcd4454803cde78c91a4849f34cdf&t=1302980082>) (accessed 13 April 2011).

## 5.2.2 Gatekeepers

Proprietary systems in the Spanish subscription television market were a trigger for a political fight in the 1990s. In 1996, PRISA's Sogecable announced the launch of the first digital satellite platform in Spain, Canal Satélite Digital. It was to use a proprietary conditional access system (CAS). The same year, the PP government encouraged the creation of a competitor, Vía Digital, led by Telefónica, whose main stakeholder at the time was the Spanish state (with 17 percent of Telefonica's shares),<sup>257</sup> and with private and public service regional broadcasters as other stakeholders. It chose an open CAS (multicrypt), yet to be standardized at that time by European bodies. In January 1997, Canal Satélite Digital started operating. The PP government immediately afterwards approved a Royal Decree, which later became law, mandating the multicrypt system for all satellite platforms. After facing opposition by the European Commission on the grounds that it damaged the free flow of products and services in the EU, the Government had to amend the law so as to permit open standards, either through technical specifications, or through an agreement on decoders' operability among different operators. This meant that simulcrypt and multicrypt CAS could coexist.<sup>258</sup>

According to a CMT board member, A. García Castillejo, CAS providers have not threatened access to content by consumers from the end of the 1990s. Indeed, the Ministry of Industry intervened in 2009 to force manufacturers to reach an agreement on subscription DTT decoders, immediately before regulating the new DTT business model.<sup>259</sup>

With regard to multiplex management, under the DTT 2005 framework, private broadcasters sharing multiplexes have agreed to delegate their management to network operator Abertis Telecom, the dominant player in the signal distribution market (see section 5.2.3). RTVE did the same, despite being endowed with the power to manage two multiplexes. With the planned reallocation of frequencies before 2015, broadcasters will have access to their own multiplex which they are set to manage on their own. Access-related problems have emerged mainly at the regional and local levels in the Canary Islands and Madrid, usually because TV operators had not agreed on the third party responsible for managing the multiplex, as already noted (see section 5.1.3).

Finally, the provision of the Electronic Programming Guide (EPG) has not posed any access problems. In a vertically integrated market, broadcasters currently manage their own EPGs in FTA DTT. They are regulated by the Telecommunications Act, which states that "to the extent necessary to ensure end-user access to certain digital broadcasting services, the CMT may impose [...] obligations on operators that operate application program interfaces (APIs) and electronic programme guides (EPG) to facilitate access to these resources on

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257. *El País*, "El gobierno decide privatizar el 15% de Telefónica este año y el 10% en 1996" (Government decides to privatize 15% of Telefonica this year and 10% in 1996), 19 April 1995, at [http://elpais.com/diario/1995/04/19/economia/798242428\\_850215.html](http://elpais.com/diario/1995/04/19/economia/798242428_850215.html) (accessed 15 May 2012).

258. C. Llorens, "European Responses to Bottlenecks in Digital pay-TV: Impacts on pluralism and competition policy," *Cardozo Arts and Entertainment Law Journal* (July 1998), pp. 557–586, at <http://www.cardozoalj.net/issues/98/Llorens-Maluquer.pdf> (accessed 14 October 2012).

259. El Economista.es, "Ministry of industry achieves an agreement between operators and TV manufacturers and there will no be a new set-top-box war" (*Industria pone de acuerdo a fabricantes y operadores y no habrá nueva guerra de los sintonizadores*), at <http://ecodiario.eleconomista.es/sociedad/noticias/1343648/06/09/Tdt-industria-pone-de-acuerdo-a-fabricantes-y-operadores-y-no-habra-nueva-guerra-de-los-sintonizadores.html> (accessed 15 April 2011).

reasonable, fair and nondiscriminatory terms.”<sup>260</sup> This prevents the existence of closed EPGs, but does not define their content and functionalities. Some policy proposals to clarify the obligations of EPGs have been made on official technical forums, but so far they have not resulted in any form of regulation.<sup>261</sup>

### 5.2.3 Transmission Networks

In the signal distribution market (from broadcast station to homes), Abertis Telecom, a division of the leading transport and communications infrastructure company Abertis, holds the dominant position (an 86.3 percent share, according to CMT).<sup>262</sup> It is also significant in the signal transport market, from broadcaster to broadcast station: it is the second-largest operator with over 30 percent of the business, but it controls the leading actor, Overon (47.5 percent)<sup>263</sup> jointly with Mediapro (La Sexta). In recent years, it has diversified its television business and indeed has led investment in broadband and mobile television.

Abertis’ telecoms activities have caused problems only in the signal broadcast market, where it is considered by the CMT to be an SMP (significant market power) operator, and therefore subject to specific obligations to preserve competition. In May 2009, it was sanctioned (without precedent) for imposing exploitative conditions on commercial broadcasters, preventing them from contracting out to another network operator. Abertis was fined with the second-highest penalty ever imposed by the National Competition Commission (*Comisión Nacional de la Competencia*, CNC), nearly €22.7 million for demanding high penalties in case of early cancellation of contracts signed in 2006 with the broadcasters Sogecable, Telecinco, Antena 3, Net TV, and Veo TV. It was also penalized for imposing excessively long contracts signed with Veo TV in 2006, and with Sogecable, Telecinco, and Net TV in 2008.

Likewise, the CNC censored the discounts offered by Abertis in the negotiations prior to the contracts signed in 2006 that would enable broadcasters to get lower prices if they contracted signal broadcasting jointly in all possible regional subdivisions. Abertis appealed against the decision. At the moment, another inquiry is still ongoing for impeding other network operators from accessing Abertis’s broadcast stations network, following a claim by the satellite operator SES Astra Ibérica.<sup>264</sup>

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260. Law 32/2003 on Telecommunications, *BOE* no. 234, 4 November 2003, 7th additional provision. Paragraph 2.

261. See Eladio Gutiérrez, “Herramientas de información y control en manos de padres, educadores y ciudadanos en general en el ámbito de la televisión digital” (Information and control tools in the hands of parents, educators and general public in the field of digital television), in ICMedia, *La protección del menor tras la ley general de la comunicación audiovisual: perspectivas y retos* (Child protection under the general law of audiovisual communication: prospects and challenges), May 2012, at <http://www.icmedianet.org/wp/wp-content/uploads/2012/05/Proteccion-Menor1.pdf> (accessed 20 June 2012); Carmen Fuente y Raquel Urquiza, “Las EPG como herramientas de información y control” (EPG as information and control tool), *Telos* 84 (July–September 2010), at [http://sociedadinformacion.fundacion.telefonica.com/DYC/TELOS/SOBRETELOS/Nmerosanteriores/DetalleAnteriores\\_84TELOS\\_DOSSIER4/seccion=1268&idioma=es\\_ES&id=2010083109410001&activo=6.do](http://sociedadinformacion.fundacion.telefonica.com/DYC/TELOS/SOBRETELOS/Nmerosanteriores/DetalleAnteriores_84TELOS_DOSSIER4/seccion=1268&idioma=es_ES&id=2010083109410001&activo=6.do) (accessed 8 October 2012).

262. CMT, *Informe final 2009*, 2010, p. 156.

263. CMT, *Informe final 2009*, 2010, pp. 154–155.

264. For access to CNC’s resolutions, see web pages <http://www.cncompetencia.es/TabId/105/Default.aspx?contentid=254045> and <http://www.cncompetencia.es/Inicio/Noticias/tabid/105/Default.aspx?Contentid=263138&Pag=12> (accessed 10 April 2011).

## 5.3 Telecommunications

### 5.3.1 Telecoms and News

At the moment, telecoms operators act in the media market through subscription television multichannel portfolios. As seen in section 1.1.2, this is a highly concentrated market with three main Spanish nationwide players: Digital+ (satellite), Ono packages (cable), and Imagenio (IPTV). Telecoms operators hold controlling stakes in Ono and Telefónica (the latter's commercial brand was recently renamed Movistar after its mobile division brand). Telefónica also holds nearly a quarter of Digital+, controlled by PRISA TV, formerly Sogecable. It is true that Telefónica held significant stakes in television and radio broadcasters and cinema and video production companies under the presidency of Juan de Villalonga, a friend of the former Prime Minister Aznar in the late 1990s. The aim was to search for business convergence and vertical integration. However, his successor, César Alierta, disappointed with the business results of that integration, started to remove investment in order to refocus on mobile, broadband, and IPTV.

At present, neither Telefónica nor Ono operates in the FTA television market or produces its own content. Only Digital+, 22 percent of which is owned by Telefónica, provides self-produced live football and bullfighting broadcasts for its Canal+ brand channels, and is now engaged in contracting out good-quality series to Spanish production companies.

In parallel with this, a second notable trend is the bundling in IPTV and cable supply offers, which has been constant since 2005—both dual and triple play—stabilizing since 2009.<sup>265</sup> Analysts note that television is the second most preferred option of subscribers after fixed telephony, although the internet is soon likely to overtake television.<sup>266</sup> Satellite platform Digital+, the platform offering only television services, has been suffering from this triple-play competition, as its stagnant subscription and revenue figures reveal.<sup>267</sup>

These trends are not seriously damaging the news content offered because this is not a strategic product for subscription television market players. This is confirmed by their channel packages, advertising campaigns, and latest strategic moves, which are focused on football, cinema, and good-quality international drama series. In April 2011, Digital+, Ono, and Imagenio started offering news content in their packages via the following different channel types.

- Spanish general-interest channels. There are at least 12 state-wide general-interest channels, half of which (La 1, La 2, Antena 3, Cuatro, Telecinco, and La Sexta) are shared by the three main platforms, and between four (Digital+) and 27 (Imagenio) regional channels, most of these public service channels. Channels from the Catalan, Canarian, Madrilenian, and Andalusian corporations are repeated across the three platforms.

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265. CMT, *Informe anual 2011*, pp. 129–130.

266. J.F. Fondevila, “El peso de la televisión en el triple play” (The weight of triple-play television). *Zer* 14(27) 2009, p. 28.

267. S. Beceiro, “Tendencias de la televisión de pago en Europa. Las plataformas de televisión digital por satélite (2004–2007)” (Trends in subscriber TV in Europe. Digital satellite TV platforms (2004–2007)), *Telos* 83, 2010.

- Spanish all-news channels. State-wide RTVE's 24 Horas appears on all three platforms, and the Valencian public regional channel 24/9 only on Imagenio.
- International all-news channels. BBC World, CNN International, and Euronews are available on all three platforms. Other channels on offer are Al Jazeera, France 24, and Fox News.
- International general-interest channels. There are almost 20 channels, mainly appearing on Ono, and only one is shared by all packages (TV5 Monde).

The must-carry regime in force since the 2003 Telecoms law<sup>268</sup> has changed with digital switch-over. Telecoms were obliged to offer general-interest channels in their portfolios, whereas broadcasters could not receive any payment in return. Under LGCA 2010, commercial broadcasters will be paid,<sup>269</sup> a condition telecoms operators have opposed since the relaunch of DTT in 2005.<sup>270</sup> Cable operators are now tempted to realize long-standing threats to get rid of general-interest channels if they are made to pay for them. Again, this will not seriously damage the news supply on offer, since commercial broadcasters are focussing their schedules on entertainment (see section 1.2.2).

### 5.3.2 Pressure of Telecoms on News Providers

As far as we know, and for the reasons explained in section 5.3.1, no pressure has been exercised by telecoms operators on news providers. In fact, quite the contrary: commercial and public-owned broadcasters have been lobbying for payment in return for their channels.

## 5.4 Assessments

Overall, the digitization of analog television has not eliminated two main features of the broadcasting spectrum license allocation policy: it has developed under a decentralized political structure, one of its key points being the respect assigned to the Autonomous Communities' constitutional prerogatives. And government authorities assigning broadcasting spectrum frequencies in public tenders are suspected of biased party political criteria. This is especially the case at the Autonomous Communities' level, where the situation has been framed as a "democratic deficit" by media scholar Enrique Bustamante.<sup>271</sup> Ironically, allocation objectives in the hyped up, new DTT seem to be replicating the tendencies of Francoist radio: to reward political loyalties rather than to preserve a healthy market.

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268. Law 32/2003 on Telecommunications, *BOE* no. 234, 4 November 2003, 7th additional provision.

269. LGCA 2010, Art. 31.

270. *Cinco Días*, "Ono y R se negarán a emitir los 20 canales de TV digital si se les obliga a pagar por ello" (Ono and R will reject broadcasting the 20 DTT channels if forced to pay for them), 31 March 2006, at [http://www.cincodias.com/articulo/empresas/Ono-R-negaran-emitir-canales-TV-digital-les-obliga-pagar/20060331cdsdiemp\\_8](http://www.cincodias.com/articulo/empresas/Ono-R-negaran-emitir-canales-TV-digital-les-obliga-pagar/20060331cdsdiemp_8) (accessed 15 April 2011).

271. E. Bustamante, "La comunicación en las Comunidades Autónomas: un déficit democrático fuerte" (Communication in Autonomous Communities: a strong democratic deficit), in *Informe sobre la democracia en España 2010* (Report on Democracy in Spain 2010), Fundación Alternativas, Madrid, 2010, p. 219, at <http://www.falternativas.org/content/download/16565/479715/version/7/file/IDE+2010Baja.pdf> (accessed 9 April 2012) (hereafter Bustamante, "La comunicación en las Comunidades Autónomas").

So far, its sustainability has been a secondary issue. Nevertheless, media scholarship, the commercial state-wide broadcasting sector, and the regulator CMT have all warned against the lack of viability of such an inflated Spanish DTT market.<sup>272</sup> Only now, with the economic crisis, is the market resizing, with the giving back of licenses in the regional and local markets and consolidation at national level (see section 6).

The digital switch-over, as a policy solution, could have served as an opportunity to redesign the television market with equal opportunities for all players, and to improve television quality through competition. This opportunity was missed. Instead, the traditional commercial analog broadcasters were privileged. As seen, only in late 2012 and pressed by the rising public debt crisis did commercial operators commit to the development of HDTV and interactive services. The realization of this pledge is yet to be seen.

The DTT media policy has thus been reactive in the absence of an independent state-wide regulator focussed on the public interest.

Other challenges concern the effects of freeing up the digital dividend to media, telecoms operators, and consumers. To date, commercial television broadcasters have been the most powerful industry actors regarding the allocation of spectrum. But their influence is set to decline due to the reduction of their multiplexes and the allocation of digital dividend licenses to the three global telecoms operators in the mobile telephony market. This power will only be confirmed if the generational change in consumers finally privileges mobile broadband internet to the detriment of traditional, home television consumption.

In the short run, though, and in the context of a serious public debt crisis, DTT consumers will have to pay most of the cost in adapting their residential reception equipment to frequency relocation, a situation that associations have labeled with the derogatory expression “second switch-off,” more than two years after the official one in April 2010.

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272. Among scholars, see Villanueva et al., *La TDT: ¿un negocio imposible?*; R. Zallo, “La política de Comunicación Audiovisual del gobierno socialista (2004–2009): un giro neoliberal” (The Socialist Government audiovisual communications policy (2004–2009): a neoliberal turn), *Revista Latina de Comunicación Social*, 65 (2010), p. 18, at [http://www.revistalatinacs.org/10/art/880\\_UPV/02\\_Zallo.html](http://www.revistalatinacs.org/10/art/880_UPV/02_Zallo.html) (accessed March 2011). The president of Antena 3 Group said in March 2010 that “in no other European country is there a competition level like the one in Spain. The whole system must be economically sustainable.” See *El Mundo*, “La TDT, un escenario de nuevas oportunidades para el sector” (DTT, a scenario of new opportunities for the sector), 28 March 2010, at <http://www.elmundo.es/elmundo/2010/03/25/comunicacion/1269538989.html> (accessed 2 April 2011). In 2008, the powerful PRISA group blamed the lack of viability of the Spanish model when it shut down its local TV network: *El País*, “PRISA acuerda el cierre de la red de televisión Localia” (PRISA agrees to shutting down Localia television network), 14 November 2008, at [http://www.elpais.com/articulo/sociedad/PRISA/acuerda/cierre/red/television/Localia/elpepiscoc/20081114elpepiscoc\\_4/Tes](http://www.elpais.com/articulo/sociedad/PRISA/acuerda/cierre/red/television/Localia/elpepiscoc/20081114elpepiscoc_4/Tes) (accessed 10 March 2011).



## 6. Digital Business

On top of the structural crisis of the media business model, there is a deep economic recession, the direct impact of which is a very significant reduction in advertising investment in Spain. The data show that advertising investment in conventional media fell by 31 percent between 2007 and 2011, which, in absolute figures, represents almost €2.5 billion less for the sector in the space of three years. The evaporation of a third of advertising revenue has affected each medium differently. The press has been affected the most, with a fall of 49 percent. Television's advertising revenue fell by 24 percent in three years, which, in absolute figures, represents around €1.2 billion. Radio has been able to hold up better, but it has still lost 22.7 percent of its advertising investment. In contrast, the internet has experienced an 86 percent rise in advertising expenditure (see Table 13).<sup>273</sup>

The 2010 data indicated a tendency towards overall stabilization, and even a slight increase in advertising spend, from which television and the internet particularly benefitted. However, a second dip in the advertising recession became clear in 2011 data. Looking to the future, the prospects could be more positive for television broadcasters because the main national commercial operators have merged: Telecinco took over Cuatro in late 2010, and Antena 3 took over La Sexta in September 2012. Added to this is the ban on advertising on RTVE since 2010, as mentioned above. All these factors allow the books of these companies to be balanced so that, in the not too distant future, they can return to their pre-recession profitability.

However, the economic viability of new entrants following switch-over remains to be seen. This is particularly the case for regional and local channels, although it also applies to certain national channels like Veo TV or Net TV. In the future, it is more than likely that some of these minority television operators will merge, in order to achieve economies of scale and to reduce costs, or continue to rent their channels to other content providers such as Disney, Paramount, Sony, Discovery Communications, or Intereconomía<sup>274</sup> (see Figure 9 and Table 12).

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273. Infoadex, "Resumen. Estudio Infoadex de la inversión publicitaria en España 2012" (Summary. Infoadex study on advertising spending in Spain 2012), Infoadex, Madrid, 2012, at <http://www.infoadex.es/RESUMEN%202012.pdf> (accessed 20 July 2012).

274. Villanueva et al., *La TDT: ¿un negocio imposible?*.

The fall in revenue for the press and radio forced a deep-seated restructuring that has yet to be completed. For the moment at least, this has led to a reduction in costs, mainly by making employees redundant. The growth of advertising in online media has not kept pace with the growth of users, and a viable business model for online news businesses in particular remains largely elusive.

This situation of deep recession has fostered two takeovers among the major Spanish groups: Telecinco's buy-out of Cuatro and Antena 3's buy-out of La Sexta. The companies have made their adjustments by closing unprofitable media or cutting back on the workforce. According to data from FAPE, from November 2008 to September 2012, the total number of media-sector employees who lost their jobs was 7,877.<sup>275</sup> Other sources put that figure at around 4,800, of whom 1,700 were journalists until 2011.<sup>276</sup>

## 6.1 Ownership

### 6.1.1 Legal Developments in Media Ownership

Media concentration laws in Spain have traditionally differed from those in other Western countries: there are no rules to prevent press concentration or to impede cross-media concentration. The reasons are historic. Most of the Spanish press played an important and positive role in the country's democratization, so any control over ownership was considered a form of unlawful state control over freedom of expression. In addition, the financial interests of Spanish press groups in developing private television in Spain conspired against the powers that be, in order to impede any attempt to place limits on press and television cross-media ownership. Consequently, the only regulation existing in Spain to limit media concentration applies to television and radio.

The absence of such cross-media legislation has profoundly shaped the media sector in Spain because it has facilitated the existence of six or eight medium-sized multimedia groups that compete against each other in the television, radio, press, and internet sectors. As a consequence, the media sector in Spain presents itself as being relatively diverse in monomedia terms, but has a high degree of cross-media concentration of ownership. However, the economic downturn has precipitated a wave of consolidation across media industries that could threaten media diversity in the near future.<sup>277</sup>

The main changes to media concentration regulation in Spain in recent years have been generated, to a great extent, by the process of television digitization, and the breakthrough can be dated to 2005. In that year, the socialist government of Rodríguez Zapatero passed another important reform of media concentration

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275. Federación de Asociaciones de Periodistas de España (FAPE), "Observatorio Profesional" (Professional Observatory), Madrid, 2011, at <http://fape.es/file/44787/observatoriocrisis24septiembre.doc> (accessed 1 October 2012).

276. B. Díaz-Nosty, *Libro negro del periodismo en España* (Black book of Spanish journalism), Asociación de la Prensa de Madrid-Cátedra Unesco Universidad de Málaga, Madrid-Málaga, 2011 (hereafter Díaz-Nosty, *Libro negro*).

277. C. Llorens, "Spain's Media Concentration Policy: A Patchwork Crucial to the Understanding of the Spanish Media System," *International Journal of Communication* 4 (2010), pp. 844–864, at <http://ijoc.org/ojs/index.php/ijoc/article/viewFile/791/462> (accessed 10 March 2011).

regulation through Law 10/2005 on Urgent Measures for the Promotion of Digital Terrestrial Television, Cable TV Liberalization and Promotion of Media Pluralism. The new act revoked Art. 4.3 of Law 10/1988, which had limited the number of private national analog terrestrial television broadcasting licenses to only three. As a result, the Government became able to grant new national analog terrestrial television licenses if frequencies were available. And indeed, a fourth such license was granted in 2006 to a new multimedia group (La Sexta), created by Mediapro and Globomedia, along with the Mexican media group Televisa.

Simultaneously, another important change in the Spanish television landscape took place. In 2006, the socialist government approved a change in the license-holding conditions for Canal+, until then a subscription television channel, to allow it to become a commercial FTA channel. Canal+ became Cuatro, a new commercial channel (see section 1.1.2 and Figure 9).

The television advertising market was still buoyant in 2006, and PRISA, Spain's biggest media group, saw a new opportunity to increase its revenue. Moreover, as a main shareholder in Sogecable, it already had a digital subscription television platform, Digital+. It realized that there was no need to waste an FTA analog television broadcasting license on a subscription television model that left the whole television advertising market to the other two operators, Antena 3 and Telecinco. Consequently, since 2006, the two new channels (Cuatro and La Sexta) have been trying to break down the duopoly formed by Telecinco (owned by Mr Berlusconi's Mediaset firm) and Antena 3 (owned by the main Spanish publisher, Planeta). The arguments for enlarging the number of operators were based on pluralism rhetoric, as the title of the law itself suggests. However, the opposition parties claimed that the two regulatory changes were made to help multimedia groups like PRISA and Mediapro, both of which were ideologically aligned with the governing party, PSOE.

However, the most profound reform of Spanish media concentration regulation since 1989 took place when the Government issued the Royal Decree-Law 1/2009 on Urgent Measures on Telecommunications in February 2009 (validated by Parliament in March 2009), which amended Private Television Law 10/1988. The use of a decree was criticized as a tactic to avoid a broad parliamentary debate on audiovisual matters. Finally, the whole new media concentration regulation was incorporated in LGCA 2010, approved in April 2010.

With regard to media pluralism, the new regulation retained the principle whereby a corporate or physical person directly or indirectly holding 5 percent or more of the share capital or voting rights of a broadcasting license-holder cannot have a significant shareholding in any other company within the same coverage area. However, there is an important exception for national broadcasting license-holders: they are allowed to hold various and simultaneous shares in several national television stations as a result of a merger, so long as their average audience is no higher than 27 percent of the total audience over the 12 consecutive months prior to an acquisition. This percentage figure was carefully chosen because it only prevented a merger between the two dominant commercial operators in Spain, Telecinco and Antena 3.

As an external pluralism safeguard, the regulation mentions that no corporate or physical person directly or indirectly holding rights in a national broadcasting license-holder can acquire a significant shareholding or voting rights in other broadcasting license-holders, where such an acquisition would involve negating the

presence of at least three national broadcasting license-holders. Therefore, a minimum threshold of three independent operators was established. As another safeguard, this one for the future, the new regulation restricts the number of DTT multiplexes that can be owned by a single operator. Of six national digital commercial multiplexes in 2010, it established that no corporate or physical person could acquire significant shareholding or voting rights in a broadcasting license-holder if it involved controlling more than two multiplexes of the public spectrum. Again, a minimum of three multiplex operators had to be present in the market.

The regulation for ownership in the radio sector is based on LGCA 2010. It establishes that a corporate or physical person may control up to 50 percent of the radio broadcasting licenses available in a certain area, so long as the total number of overlapping radio broadcasting licenses controlled in that area is no higher than five. A person can also control up to a third of the radio broadcasting licenses with total or partial coverage of the state. Where there is only one frequency available in a particular area, no corporate or physical person may control more than 40 percent of radio broadcasting licenses of that kind in the same region or Autonomous Community. These percentages are calculated by excluding public radio stations, and the limits are applied separately to analog and digital radio stations. The limits are established in line with the market status quo, with a high dominance of frequencies owned by PRISA's radio group, PRISA Radio (former Unión Radio).

Regarding local terrestrial television, according to Law 41/1995, which was amended in 2002 and 2003, broadcasting license-holders cannot create a network or enter into networking agreements with other license-holders. They may do so only after the government of the region where they are located has given its authorization.

Constraints on non-EU nationals have been in place since the establishment of Law 10/1988. The latest reform (LGCA 2010) established that non-EU nationals can buy new shares only if a reciprocal agreement with the country of origin is acknowledged. It also states that non-EU nationals or firms can directly or indirectly hold a maximum of 50 percent of broadcasting license-holder share capital.

### **6.1.2 New Entrants in the News Market**

At first sight, it might seem that the entry of new operators into the Spanish media market since 2005 has been very significant, especially in the television sector, taking advantage of the introduction of DTT. However, if the nature and origin of these new actors is analyzed in depth, it turns out that the situation has not substantially changed because the majority of new television operators belong to consolidated press groups that have accessed national DTT licenses.

Indeed, only one really new player has made a powerful entrance in the sector from the audiovisual production business. This is the Mediapro Group, a production company based in Barcelona, which was founded in 1994 by Jaume Roures and Tatxo Benet, two sports producers from the Catalan regional public broadcaster TV3. They started producing sports broadcasts for Spanish pay-TV channels and renting retransmission facilities. Later, Mediapro grew and diversified its operations. It began to produce its own programs and thematic channels, acquired sports rights, and even produced some international movies. It merged with Globomedia, another successful Spanish independent producer, and WPP, the UK advertising company, to

create an audiovisual holding called Imagina in 2006. This company created and controlled the generalist channel La Sexta. However, huge financial difficulties and the advertising crisis forced La Sexta to agree to merge by means of a takeover by Antena 3 at the end of 2011. The group's prospects are gloomy as some of the Imagina companies are experiencing serious financial difficulties.

In the press sector, the situation has followed the economic cycles. With economic growth, revenues and circulation were high, free newspapers expanded and a new national left-wing newspaper owned by Mediapro, *Público*, appeared in 2007. The appearance of free dailies is a relevant factor. The first to appear and become sector leader was *20 minutos* (in 2000). *Qué* emerged in 2005 and a year later, *ADN* and *Metro*. As a result of intense competition and abundant advertising investment, the free dailies' circulation peaked in 2006 with a 58 percent share of the overall Spanish dailies' circulation. Even in the context of recession, *20 minutos*, *Qué*, and *ADN* circulated an overall average of 1.9 million daily copies in 2010. Before the crisis, in 2007, the figure was 3.8 million.<sup>278</sup> However, as the economic crisis deepened, the sector was acutely affected by the decline in advertising, its sole funding mechanism. In 2010, the free press circulation share decreased to 41 percent, also due to the disappearance of several titles. *Metro* was shut in 2009, *ADN* in 2011, and *Qué* in 2012.

Nevertheless, free dailies remain circulation leaders: *20 minutos* distributed on average 710,000 copies in 2010, clearly overtaking *El País*, which leads the pay market (see section 1). The free dailies have extended press readership to new users not buying papers before, for example young readers and medium- and low-income people with a standard secondary education.

The paid-for newspaper market was also heavily affected by the economic crisis. *Público* went into administration at the beginning of 2012 and rumours of an *ABC* and *El Mundo* merger were frequent in 2012. Nevertheless, a new title in Catalan, *Ara*, emerged in 2010.

In the radio sector, the entry of new actors has been minimal, so the ownership of radio by large Spanish networks has remained stable in recent years. However, as the advertising market shrinks, merger activity between the three right-oriented national networks (COPE, Onda Cero, and ABC Radio) is more likely.

### 6.1.3 Ownership Consolidation

Concentration levels in the media sector generally were in decline up until 2010, and started to increase again in 2011 (see Table 11). Circulation figures were collected for all Spanish newspapers apart from sports, financial, and free newspapers. The four newspapers with the highest circulation figures experienced a minor decrease relative to the total Spanish press circulation between 2005 and 2010, but the concentration level grew in 2011. These four newspapers, *El País*, *ABC*, *El Mundo*, and *La Vanguardia*, account for 40.3 percent of total circulation, up from 39.7 percent in 2005.

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278. AEDE, *Libro Blanco de la Prensa diaria 2010*; circulation data from OJD.

In radio, concentration was analyzed on the basis of the combined audience for the four most important generalist stations. The resulting data show a similar trend to the press sector. The concentration level fell slightly from 88.5 percent in 2005 to 83.3 percent in 2010 and began to rise again to 85.2 percent in 2011.

Table 11 shows two indicators for television, advertising investment revenue concentration and audience concentration for the four leading companies. The situation shows a high audience concentration, with a downward trend over the period 2005–2009, and greater advertising investment concentration, also with a downward trend, in the same period. However, it should be noted that in the last two years analyzed (2010–2011), this trend reversed because of the merger between Telecinco and the FTA channel Cuatro.

In addition, concentration in the television sector was expected to be even more pronounced in 2012 due to the merger between La Sexta and Antena 3, although the effects of this were not noticeable until late 2012. Audience data for October 2012 showed that rankings for Spanish television groups are as follows: Mediaset obtained 28.8 percent of the audience share, followed closely by Antena3-LaSexta with 26.9 percent, then RTVE with 17.6 percent, Vocento with 4.5 percent, and Unedisa with 3.6 percent. The first four groups account for the 77.8 percent of the total audience, meaning an increase of 4.5 points over the 2011 concentration data and an increase of 9.3 percentage points over the 2005 data (see Table 11).<sup>279</sup> Consequently, 2013 is expected to bring a repeat or an increase in the high levels of advertising and audience concentration found in 2005, before the Spanish television market was opened up to the entry of the analog channels Cuatro and La Sexta, and the expansion of digital channels by the DTT switch-over in 2010.

Table 11.

Media concentration based on market share of the top four firms (%), 2005–2011

	2005	2006	2007	2008	2009	2010	2011	2005/2011
Quality press	39.7	39.1	39.1	38.9	38.7	38.3	40.3	+1.5
Non-thematic radio	88.5	88	88.4	86.7	86.7	83.8	85.2	-3.8
TV advertising	90.6	86	85.4	83	79.5	84.8	89.8	-0.9
TV audience	68.5	70.1	68.8	64.1	62.3	64.4	73.3	+7

Sources: Quality press figures based on the number of issues effectively distributed according to OJD: see AEDE, *Libro Blanco de la Prensa diaria*, 2012, 2010, 2009, 2007, and 2006; radio data based on audience figures provided by AIMC, *Marco General de los Medios en España*, Madrid, 2012; TV advertising data based on advertising revenue provided by CMT, *Informe anual 2006, 2007, 2008–2009, 2010, and 2011*; TV audience data provided by Barlovento Comunicación, “Análisis Televisivo 2011”

Generally speaking, media ownership in Spain has swung back and forth over the last five years, especially in the television sector, which is where anti-trust regulation is mainly focussed. In 2005, the Spanish television viewer could tune in to two private national channels (Antena 3 and Telecinco), two public channels (La 1 and La 2), plus one or two public regional channels and one or two local channels. In total, a viewer could tune

279. Barlovento Comunicación, *Nota Octubre* (October note), p. 2. at [http://www.barloventocomunicacion.es/images/publicaciones/NOTA\\_OCTUBRE\\_2012\\_BARLOVENTO\\_COMUNICACION\\_AUDIENCIAS.pdf](http://www.barloventocomunicacion.es/images/publicaciones/NOTA_OCTUBRE_2012_BARLOVENTO_COMUNICACION_AUDIENCIAS.pdf) (accessed 25 November 2012).

in to between six and eight analog channels. When analog television was switched off in 2010, the number of channels multiplied by five, in what was referred to as the “media bubble,” facilitated by digitization and engulfed in political clientelism.

Such a high multiplication of operators was financially unsustainable, even outside the context of recession. Consequently, the “media bubble” has burst, mostly at regional and local levels, yet also at national level for new national television operators with unknown brands such as Veo TV and Net TV.<sup>280</sup> The viability crisis has reduced the number of agents in the market due to mergers between television channels (Cuatro and Telecinco, La Sexta and Antena 3), and has forced some operators to rent out frequencies to other operators (Disney Channel, MTV, Intereconomía, AXN, 13TV). It has even led to licenses being surrendered by some regional and local operators (see section 5.1).

Even before Parliament validated new and more flexible media ownership thresholds in the Private Television Law 10/1988 in 2009, some commercial operators were already in merger talks. Soon after, PRISA sold Cuatro to Mediaset’s Telecinco in December 2010 and the CNC approved the merger in October 2010, subject to commitments by Telecinco to limit its power in the television advertising, FTA terrestrial and audiovisual content markets.<sup>281</sup> La Sexta and Antena 3, for their part, reached a final agreement in December 2011 after two years of talks. The CNC merger review in July 2012 imposed tougher conditions than the merger between Telecinco and Cuatro.<sup>282</sup> As a consequence, La Sexta and Antena 3 announced their decision to abandon the merger because of the low profitability envisaged. Shortly after, on 24 August 2012, the Government decided to relax the requirements imposed by the CNC on general interest grounds.<sup>283</sup> Plans for the merger have since been revived.<sup>284</sup>

Therefore, as there are eight national digital multiplexes, two of them are owned by public broadcaster RTVE with six channels, Mr Berlusconi’s Mediaset España manages 10 channels, Antena 3-La Sexta 10 channels, four channels are owned by Net TV, and five more by Veo TV (see Table 12).

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280. Díaz-Nosty, *Libro negro*.

281. CNC, “La CNC aprueba con compromisos la operación de concentración Telecinco/Cuatro” (The CNC approves Telecinco/Cuatro concentration with compromises), 29 October 2011, at <http://www.cncompetencia.es/Inicio/Noticias/tabid/105/Default.aspx?ContentId=281957&Pag=1> (accessed 10 July 2012).

282. CNC, “La CNC condiciona la adquisición de La Sexta por Antena 3” (CNC conditions the acquisition of La Sexta by Antena 3), press release, 13 July 2012, at [http://www.cncompetencia.es/Inicio/GestionDocumental/tabid/76/Default.aspx?EntryId=149433&Command=Core\\_Download&Method=attachment](http://www.cncompetencia.es/Inicio/GestionDocumental/tabid/76/Default.aspx?EntryId=149433&Command=Core_Download&Method=attachment) (accessed 15 July 2012).

283. Government of Spain, “Acuerdo por el que se autoriza la operación de concentración económica Antena 3/La Sexta y se imponen condiciones a la misma” (Agreement authorizing the economic concentration between Antenna 3/La Sexta and where conditions are imposed), at [http://www.lamoncloa.gob.es/consejodeministros/referencias/\\_2012/refc20120824.htm#Concentracion](http://www.lamoncloa.gob.es/consejodeministros/referencias/_2012/refc20120824.htm#Concentracion) (accessed 20 September 2012).

284. R.G. Gómez and I. Gallo, “Antena 3 absorbe la Sexta” (Antena 3 takes over La Sexta), *El País*, 14 December 2011, at [http://sociedad.elpais.com/sociedad/2011/12/14/actualidad/1323858005\\_357878.html](http://sociedad.elpais.com/sociedad/2011/12/14/actualidad/1323858005_357878.html) (accessed 15 December 2011).

*Table 12.*  
National DTT channels by media group

Antena 3 Televisión		Mediaset España		Net TV	Vevo TV	RTVE
Antena3	La Sexta	Telecinco	Cuatro	Intereconomía	Discovery Max	La 1
Nitro	La Sexta3	FDF	Divinity	Disney Channel	13TV	La 2
Nova	Xplora	Boing	Energy	MTV	Marca TV	Clan
Neox		La Siete		Paramount Channel	Mundo Interactivo	Teledeporte
Antena 3HD	La Sexta HD	Telecinco HD	Cuatro HD		AXN (pay-TV)	TVE-HD
	GolTV (pay-TV)	LTC (shopping channel)				24 Hours

*Source:* Prepared by the authors on the basis of data supplied by companies and the Government

The international presence in the Spanish media sector has historically focussed on private television, and is mostly Italian, even if the presence of U.S. specialized TV content providers is growing. Thus, the leading private television channel in Spain is Telecinco, which has been run by the Italian group Mediaset since 2002, the time when it managed to become the majority shareholder in the company. Only Telecinco's December 2009 merger with the broadcasting activities of PRISA reduced this figure to 41 percent in 2011.<sup>285</sup>

The PRISA-Telecinco merger may have reduced news diversity by leading to the closure of CNN+, a 24-hour news channel launched on satellite in 1999 as a Turner-PRISA joint venture, then relaunched in 2008 as an FTA DTT channel. (Its initial annual audience share of 0.2 percent trebled to 0.6 percent in 2010.)<sup>286</sup> Telecinco, well known for its reality and celebrity shows and drama series, replaced CNN+ with a round-the-clock "*Big Brother*" broadcast, and later on with Divinity, a women-oriented channel. PRISA declared that it would launch a new news channel on subscription satellite and cable.<sup>287</sup> This has not happened. RTVE's 24 Hours remains the sole news channel on nationwide free-to-air DTT.

Along the same lines, the second most significant television channel in terms of audience and advertising revenue, Antena 3, was acquired from Telefónica by the Planeta-DeAgostini group in 2003, a company jointly owned, with equal shareholdings, by the owners of the main Spanish publishing company, Planeta, and the Italian publishing company DeAgostini. They currently control 44 percent of the Antena 3 group, which, besides owning the television channel of the same name, owns Onda Cero, the second most popular

285. Gestevisión Telecinco, *Informe 2010* (2010 Report), Gestevisión Telecinco, Madrid, 2010, p. 60, at [http://www.gente5.telecinco.es/videosinv/pub\\_ieconomia/pdf/TELECINCO\\_INFORMES\\_2010\\_CUENTAS\\_ANUALES\\_Y\\_GOBIERNO\\_CORPORATIVO.pdf](http://www.gente5.telecinco.es/videosinv/pub_ieconomia/pdf/TELECINCO_INFORMES_2010_CUENTAS_ANUALES_Y_GOBIERNO_CORPORATIVO.pdf) (accessed 26 June 2011).

286. Barlovento Comunicación, "Análisis televisivo 2010", pp. 13–15.

287. *El País*, "CNN+ dice adiós por su inviabilidad" (CNN+ says goodbye due to its unviability), 27 December 2010, at [http://www.elpais.com/articulo/gente/tv/CNN/dice/adios/inviabilidad/elpepugen/20101227elpepuge\\_3/Tes](http://www.elpais.com/articulo/gente/tv/CNN/dice/adios/inviabilidad/elpepugen/20101227elpepuge_3/Tes) (accessed 19 June 2012).



radio station. The German company UFA, an audiovisual subsidiary of the Bertelsmann group, also owns 20 percent of the Antena 3 group.<sup>288</sup>

The Italian presence is also significant in the Spanish press. In 2007, RCS, the Italian multimedia group that publishes *Corriere della Sera*, became the controlling shareholder (96 percent) of the Spanish media group Unidad Editorial, which owns the newspaper *El Mundo*, the second best-selling generalist newspaper in Spain; the sports newspaper *Marca*, the leader of the sports press in Spain; and the digital television group Veo TV, with a minimal audience share of 0.4 percent with its Veo 7 channel, and 0.8 percent for Marca TV in 2011. Veo 7 was closed in late 2011 and has since been replaced by Discovery Max.<sup>289</sup>

As mentioned earlier, the presence of new national and international actors in the Spanish media sector has increased thanks to the DTT development process. This dual characteristic—the advent of new national and international actors—can be observed, for example, when analyzing the shareholders of the analog channel La Sexta in 2006. The principal shareholders of Grupo Audiovisual de Medio de Producción (GAMP), the company that managed the channel, were a group of independent Spanish producers, Imagina, holding 51 percent of the shares, and the Mexican television group Televisa owned 40 percent of the company.

So far, Televisa's investment has been purely financial; it has not participated in content management or in the editorial line of the group's channels. However, the Mexican group has been the party most interested in promoting a merger of the group's stations with Antena 3's, in order to make a return on an investment that so far has not been as lucrative as expected. In 2011, La Sexta had 7.6 percent of the national audience across all the group's channels, and occupied fourth place among Spanish television groups, after the RTVE group, Telecinco, and Antena 3.<sup>290</sup> In late 2010, La Sexta's difficult financial situation led to a takeover buy-out by Antena 3, as explained earlier. Televisa has given up its shareholding in GAMP's La Sexta in exchange for a 14.5 percent shareholding in the bigger mother company, Imagina. Consequently, Imagina controls 92 percent of La Sexta and Televisa is now represented on the board of directors of Imagina, a more production-oriented company than GAMP.

The DTT implementation process also saw the launch of Cuatro in 2006, a new generalist channel, because the Government allowed the broadcast of subscription television channel Canal+ to be replaced by an FTA channel (see section 1.2.2). The channel was owned by the PRISA group, the main media group in Spain at that time, and shortly after its launch it became the Spanish audience's fourth choice after RTVE, Telecinco, and Antena 3. However, the PRISA group's excessive indebtedness caused by an offer to acquire shares of its digital subscription television subsidiary, Sogecable, in 2008, forced that group to seek financial partners that could provide capital to prevent it from going bankrupt.<sup>291</sup> In December 2011, a deal with the U.S.-

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288. Grupo Antena 3, "Informe anual y de responsabilidad corporativa" (Annual and corporate responsibility report), Grupo Antena 3, Madrid, 2011, p. 15, at <http://www.grupoantena3.com/nuevaa3tv/doc/InformeAnual2010.pdf> (accessed 19 June 2012).

289. Barlovento Comunicación, "Análisis televisivo 2011," p. 14.

290. Barlovento Comunicación, "Análisis televisivo 2011," p. 14.

291. N. Almirón, "El deute de Sogecable i PRISA: anàlisi i gènesi d'una estratègia empresarial global d'alt risc" (The debt of Sogecable and PRISA: Analysis and genesis of a high risk global business strategy), *Quaderns del CAC 29* (2008), pp. 105–116, at [http://www.cac.cat/pfw\\_files/cma/recerca/quaderns\\_cac/Q29\\_Almiron\\_EN.pdf](http://www.cac.cat/pfw_files/cma/recerca/quaderns_cac/Q29_Almiron_EN.pdf) (accessed 26 June 2011).

based Liberty investment fund was approved, whereby Liberty investors own 57.7 percent of the company, although its management continues to remain in the hands of the founding family and its CEO, Juan Luis Cebrián (see section 1.3.1).

Consequently, the main media group in Spain, which owns the leading newspaper *El País*, the main radio broadcasting group Unión Radio (SER, C40, Cadena Dial, etc.), the main subscription television platform Digital+, and several other media outlets, fell under the control of U.S. financial interests. The financial need was so pressing that PRISA decided to sell its FTA television channel Cuatro and 22 percent of its subscription television platform Digital+ to Telecinco, owned by Mr Berlusconi. In exchange, PRISA received 17 percent of the newly merged company, called Mediaset España. In practice, the deal means that Cuatro has been sold to Telecinco. In the same way, this Spanish group sold another 22 percent of the leading digital subscription television platform in Spain, Digital+, to Telefónica in late 2010.

The switch-over to DTT has also led to the entry of international content providers into the FTA television market. Many of them were already operating in Spain through subscription television platforms. However, with DTT they have managed to secure a bigger audience and higher advertising revenue. The operators with the greatest financial difficulties and inexperience of audiovisual production such as Veo TV and Net TV have rented out some of their channels to international groups. For example, Sony has rented a channel from the multiplex of Veo TV, which is owned by Unidad Editorial, to broadcast its subscription television channel AXN. Discovery Network has rented another channel from Veo TV to broadcast its entertainment channel Discovery Max. For its part, Net TV, owned by the press group Vocento, has ceded two of its four digital channels to the international companies Disney and Viacom, which have decided to broadcast the Disney Channel and MTV respectively. While Viacom has remained on the sidelines of Net TV's ownership, Disney Channel struck a deal to have a 20 percent shareholding in Net TV (see Table 12).<sup>292</sup>

Simultaneously, the explosion of channels brought about by the switch-over to DTT has also facilitated the entry of new national content suppliers. The Unidad Editorial group, the owner of the Veo TV multiplex, has rented out one of its channels to a group of shareholders connected with the Catholic Church, 13TV. For its part, the Net TV group has ceded one of its channels to the media group Intereconomía, whose ideology is very conservative, in exchange for an increase in its participation in the shareholding of Net TV of up to 25 percent (see Table 12).

In short, the internationalization of the media sector is a significant and growing reality and, for some experts, foreign influence in the media, and particularly the Italian influence, is worrying.<sup>293</sup>

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292. Vocento, "A la Comisión Nacional del Mercado de Valores. Comunicación de hecho relevante" (To the national stock market commission. Relevant facts), Vocento, Madrid, 2008, at [http://www.vocento.com/pdf/hechos\\_relevantes/2008/080212HechoRelevanteDisneyCastellano.pdf](http://www.vocento.com/pdf/hechos_relevantes/2008/080212HechoRelevanteDisneyCastellano.pdf) (accessed 26 June 2011).

293. Díaz-Nosty, *Libro negro*.

The figures of the four media groups with a foreign controlling interest in their shareholdings—PRISA (United States), UNEDISA (Italy), Mediaset España (Italy), and Grupo Antena 3 (Italy-Germany)—show that 70 percent of the quality press, 80 percent of the commercial television audience, and 70 percent of generalist commercial radio are in non-Spanish hands.<sup>294</sup> But it should be noted that in most cases the management and the content continues to be led by Spanish shareholders, as is the case with PRISA and Grupo Antena 3. The only group with a Spanish controlling interest is Vocento, the owner of *ABC*, which is the third-largest newspaper in terms of circulation, and Net TV. The Imagina group, owned by the independent producers who used to manage *La Sexta*, also had a Spanish controlling interest, but its integration into Grupo Antena 3 has caused its “Spanishness” to become diluted in the new Antena 3-La Sexta group. And even more so if we consider that Mexico’s Televisa now has a 14.5 percent shareholding in Imagina.

Regarding pluralism, while DTT has allowed the number of actors and content to expand, the recession has caused a contraction, so the situation is now back to where it was originally in 2005. A very good example of this is the fusion of Cuatro’s digital channels with Telecinco’s, and of Antena 3’s with *La Sexta*’s. In the first case, besides involving the destruction of 89 employment contracts,<sup>295</sup> it involved the loss of the all-news channel CNN+ in December 2010 and its replacement by the entertainment channel Divinity, which is aimed at a female audience. The merger has also involved the integration of the staff, equipment, and IT systems of the news services of Cuatro and Telecinco. However, different news services are offered at alternative times on each channel in order to reach different audiences because, while Telecinco’s news audience is more generalist, Cuatro’s is more urban and male.<sup>296</sup>

Looking to the future for Spanish television, it is more than likely that the diversity of actors and content will decrease in light of the economic recession, which will lead to a fall in advertising investment. The present scenario is a return to the situation prior to the launch of DTT: an oligopoly with two major commercial operators dominating the advertising market (Telecinco-Cuatro and Antena 3-La Sexta), three dominating audience share (RTVE, Telecinco, and Antena 3), and a group of small channels with tiny and niche audiences managed by Net TV and Veo TV, which have decided to rent out their channels to the highest bidder.

Ownership conflicts have affected the practice of journalism. In 2011, the sports journalist José Antonio Abellán was dismissed from the Catholic radio network COPE due to the hiring of a new journalist. Fears that he might reveal details and information about his contract and his position inside the radio station led the managers of COPE to put pressure on the television channel Telecinco to ensure that Mr Abellán would not be able to take part in one of the late-night shows with the highest audiences in Spain, “*La Noria*.”<sup>297</sup>

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294. Díaz-Nosty, *Libro negro*.

295. Gestevisión Telecinco, *Hecho Relevante* (Relevant fact), Gestevisión Telecinco, Madrid, 24 March 2011, at [http://www.telecinco.es/inversores/es/documentacion/Hecho\\_11\\_24032011.pdf](http://www.telecinco.es/inversores/es/documentacion/Hecho_11_24032011.pdf) (accessed 26 June 2011).

296. P. Gosálvez, “Dos telediarios, una redacción” (Two newscasts, one newsroom), *El País*, Madrid, 6 April 2011, at [http://www.elpais.com/articulo/Pantallas/telediarios/Redaccion/elpepurtv/20110406elpepirtv\\_3/Tes](http://www.elpais.com/articulo/Pantallas/telediarios/Redaccion/elpepurtv/20110406elpepirtv_3/Tes) (accessed 26 June 2011).

297. Vanitatis, “José Antonio Abellán: ‘La Iglesia sugirió mi veto en Telecinco’” (The Church suggested I should be banned from Telecinco), Vanitatis, Madrid, 17 August 2011, at <http://www.vanitatis.com/television/2011/jose-antonio-noria-telecinco-vasile-iglesia-abellan-iglesia-cope-sugirio-telecinco-20110817-15451.html> (accessed 26 June 2011).

The economic impact of sport often means that commercial interests conflict with the interests of journalism. In 2007, the Real Madrid football club decided to sell its television rights up until 2014 to Mediapro instead of PRISA, which had been the main audiovisual partner of the club. Since then, Real Madrid and PRISA have had a hostile relationship: PRISA's media outlets have often criticized the directors, players, and managers of Real Madrid, while Real Madrid has often not allowed access to or facilitated the work of the group's journalists.<sup>298</sup>

Another recent case of conflict between the interests of journalism and business is the Catalan newspaper *La Vanguardia's* non-publication of an op-ed article by Mónica Terribas, head of Catalonia's regional public service television and radio, in which she defended the public service and accused certain private groups of wanting to see its demise, with an implicit reference to the Godó group. The letter was published in every newspaper in Catalonia except the one with the biggest circulation, *La Vanguardia*, owned by the Godó group.<sup>299</sup>

#### 6.1.4 Telecoms Business and the Media

The influence of telecoms operators over the media sector is scant and basically limited to relationships connected with content and channel buying for their respective IP or IPTV and mobile television distribution networks, and to agreements for the development of new technological proposals connected with television. The reasons for this distance between sectors reside in part in the unsuccessful experience of Telefónica, which tried to become a convergent company by buying Antena 3 in the mid-1990s, as described in section 5.3.1. Telefónica's strategy was redirected towards new opportunities in its traditional business of mobile telephony and broadband.

Its current strategy in the media sector has a greater focus on preserving its interests in the subscription television platform sector, since it is one of the elements of the triple-play service it can offer to telecoms consumers. In this respect, it made its highest investment in late 2010, when it acquired 22 percent of the PRISA platform Digital+ after paying €488 million.<sup>300</sup> Finally, it should be pointed out that Telefónica has reached an agreement with RTVE to produce entertainment content, which, for the moment at least, is limited to three culturally and socially oriented television programs, with the intention of experimenting with new distribution and interactivity formulae.<sup>301</sup>

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298. *El Economista*, "Nuevo veto del Real Madrid y Mourinho a periodistas críticos con su trabajo" (Real Madrid and Mourinho once again ban journalists critical of their work), Madrid, 3 March 2011, at <http://ecodiario.economista.es/futbol/noticias/2873481/03/11/Nuevo-veto-del-Real-Madrid-y-Mourinho-a-periodistas-criticos-con-su-trabajo.html> (accessed 26 June 2011).

299. Espai Foundation for Catalan Culture and Communication (*Fundació privada Espai Català de Cultura i Comunicació*, ESCACC), "Terribas respon a l'ofensiva dels mitjans privats" (Terribas responds to private media attack), ESCACC, Barcelona, 11 October 2011, at <http://www.escacc.cat/ca/contingut/terribas-respon-a-l-ofensiva-dels-mitjans-privats-2937.html>. (accessed 13 October 2011).

300. Telefónica, "2010 Informe Annual" (2010 Annual Report), Telefónica, Madrid, 2011, p. 113, at [http://www.telefonica.com/es/annual\\_report/pdf/telefonica\\_ia10\\_esp.pdf](http://www.telefonica.com/es/annual_report/pdf/telefonica_ia10_esp.pdf) (accessed 26 June 2011).

301. Telefónica-RTVE, "Telefónica colabora con RTVE para crear contenidos de entretenimiento para la Televisión" (Telefonica collaborates with RTVE to create entertainment content for television), press release, Telefónica, Madrid, 6 October 2011, at [http://saladeprensa.telefonica.com/documentos/nprensa/Nota\\_Telefonica\\_RTVE\\_061011OK.pdf](http://saladeprensa.telefonica.com/documentos/nprensa/Nota_Telefonica_RTVE_061011OK.pdf) (accessed 10 October 2011).

One of the specific features of the sector is that most of the media group owners have the media sector as their core business. Therefore, the conflict between journalism and other financial or industrial interests of the owners is not as acute as it is in France and Italy, where major industrial groups are media owners. As a result, it is not unusual to find that the pressures on journalists are usually external to the organizations within which they work, and mostly come from public authorities. Thus, according to a survey carried out in early 2008 among directors of daily Spanish newspapers, 86.5 percent acknowledged that they had been subjected to external pressures, mostly from public organizations.<sup>302</sup>

Some cases have highlighted conflicts of interest between telecoms operators and journalism, albeit some years ago. The best known instance occurred from 2001 to 2002 between the company Telefónica—then the owner of Antena 3 and the radio station Onda Cero—and Pedro J. Ramírez, director of *El Mundo*, the second largest generalist newspaper in Spain. In 2001, this newspaper began to publish an investigative report on the president of Telefónica, César Alierta, and accused him of using insider information on the stock exchange, a criminal charge from which he was finally absolved in 2009.

In retaliation, Telefónica cut its advertising in *El Mundo* and exerted pressure to get Mr Ramírez dismissed as a speaker on Antena 3's television chat show program "*El Primer Café*" (The First Coffee). The newspaper's response was to draw more attention to the case. A short while later, the program's director and journalist Isabel San Sebastián, was dismissed for opposing the ban on Mr Ramírez.<sup>303</sup>

Another case that is very much related to this one, though with interests that were rather more political than business-related, took place at the same time. Certain journalists from the radio station Onda Cero, owned by Telefónica, who were against the ideology of the conservative government at that time, were banned by the company in a bid to appease the Government.<sup>304</sup>

### 6.1.5 Transparency of Media Ownership

Media ownership transparency has increased in recent years thanks to the inclusion of the sector in current financial trends publication. Until recently, the majority of media companies in Spain were family businesses that zealously kept their own figures and accounts to themselves. With the expansion into the audiovisual world, the need for funding forced companies to be more transparent. The final stage of this evolution has been the entry into the stock market of the great majority of media groups operating in Spain: Gestevisión Telecinco, Antena 3, PRISA, and Vocento.

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302. Díaz-Nosty, *Libro negro*, p. 105.

303. *El Mundo*, "Cronología del caso Alierta" (Timeline of the Alierta case), 14 October 2003, at <http://www.elmundo.es/elmundo/2003/06/11/economia/1055337264.html> (accessed 26 June 2011).

304. *El País*, "Enric Sopena se siente 'objetivamente vetado' y renuncia a participar en las tertulias de Onda Cero" (Enric Sopena feels "objectively banned" and gives up participating in the Onda Cero debates), Madrid, 9 October 2001, at [http://www.elpais.com/articulo/Pantallas/Enric/Sopena/siente/objetivamente/vetado/renuncia/participar/tertulias/Onda/Cero/elpepirtv/20011009elpepirtv\\_1/Tes](http://www.elpais.com/articulo/Pantallas/Enric/Sopena/siente/objetivamente/vetado/renuncia/participar/tertulias/Onda/Cero/elpepirtv/20011009elpepirtv_1/Tes) (accessed 26 June 2011).

From that moment on, these groups were forced to publish their data every three months and to be extremely careful about the veracity of the information provided. However, the growing influence of financial institutions over media ownership consolidation makes management structures more complicated and obscure for the non-specialized public. Managers are more attentive to loan renegotiation, stock market entries, and debt control than to content management. All in all, they are more oriented towards economic profit in the short run than to social benefit in the long run.<sup>305</sup> On the other hand, it remains to be verified whether ownership's influence on media content has grown or rather been reduced with digitization. In any case, it is clear that there exists a greater contact between political authorities and broadcasters' lobbies, so as to influence the country-wide arrangement of the sector.

## 6.2 Media Funding

### 6.2.1 Public and Private Funding

In the last five years, the evolution of the annual income of the media operating in Spain has been a rollercoaster: rapid growth followed by steep decline. The reason for this is simple: until 2007, the press, radio, internet, and television sectors experienced a significant growth of advertising revenue thanks to the economic boom nurtured by the housing bubble and easy access to financial credit. For instance, in 2005 the Spanish television sector was the most profitable in Europe, with a profit margin of 41.2 percent, according to European Audiovisual Observatory data.<sup>306</sup> However, since the 2008 crisis, the decrease in advertising revenue has been equally steep. This ebb and flow has to be taken into account when analyzing overall figures. As such, although advertising expenditure declined by 18 percent during the seven years from 2005 to 2011, as Table 13 shows, it has actually declined by 31 percent since 2007. A sector which loses almost a third of its most important source of income in only three years calls the whole commercial media system into question.

In radio, revenues decreased by almost 14 percent between 2005 and 2011, but if they are compared with those of 2007, the fall would approach 22 percent. This is especially acute, because advertising is almost the only source of revenue available to radio. Competition for audiences from public service stations and inflated competition among private stations contribute to a very precarious situation. This has been overcome so far by adjustments in staffing, as the figures for Catalonia show,<sup>307</sup> without resorting to a restructuring of the radio market through mergers or takeovers.

The internet, on the other hand, presents a much more positive example, since it has grown so impressively as a new advertising platform, with a 554 percent increase between 2005 and 2011 and replacing radio as the third-highest advertising earner after television and print. This notwithstanding, its growth has been slowed down in recent years by the economic crisis and its coming of age as an advertising window. Between 2007 and 2011, growth was much lower, at 86 percent.

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305. N. Almiron, *Journalism in Crisis. Corporate media and financialization*, Hampton Press, Cresskill, NJ, 2010.

306. European Audiovisual Observatory, *Audiovisual Yearbook 2008*, Strasbourg, 2009.

307. C. Llorens, "La Radio" (Radio), in "Informe de la Comunicació a Catalunya 2008–2010" (Report on Communication in Catalonia 2008–2010), Institut de la Comunicació-UAB-Generalitat de Catalunya, Barcelona, 2011, p. 69, at [http://incom.uab.cat/informe/content.asp?id\\_seccio=20](http://incom.uab.cat/informe/content.asp?id_seccio=20) (accessed 10 June 2011).

Table 13.  
Advertising investment (€ million), 2005–2011

	2005	2006	2007	2008	2009	2010	2011	Change (%), 2005–2011
Radio	609	636	678	642	537	548	524	-13.96
Television	2,950	3,188	3,468	3,082	2,377	2,471	2,237	-24.17
Press + Sunday supplements	1,785	1,913	2,027	1,612	1,243	1,196	1,034	-42.07
Magazines	674	636	678	617	401	397	381	-43.47
Internet	162	310	482	610	654	798	899	+554.94
Others	540	623	652	539	418	448	430	-20.37
Total	6,720	7,306	7,985	7,102	5,630	5,858	5,505	-18.08

Note: data in constant prices seasonally adjusted

Sources: Infoadex, *Estudio Infoadex de la inversión publicitaria en España 2012*, Infoadex, Madrid, 2011.

The printed press is the medium with the greatest fall in advertising revenues: 42 percent between 2005 and 2011, and 49 percent since 2007. However, the impact of the recession on the sector has been cushioned slightly by the existence of alternative revenue streams. As Table 14 shows, the decline in retail sale revenues (per item) is lower than the decline in advertising. As such, retail sales have proved more resistant to decline and remain a more stable source of income. Nevertheless, the print press in Spain lost 28 percent of its overall income between 2005 and 2010. As in radio, adjustments in staffing have been the main instrument for adapting to the new scenario of meager revenues, as detailed at the beginning of this section.

The disappearance of certain titles or their consolidation with other publications has accelerated. Among the mergers, that between the Catalan language dailies *Avui* and *Punt Diari* (2009) stands out, and among the disappearances are the free papers *Metro* (2009) and *ADN* (2011), along with regional dailies such as *La Tribuna de Cuenca* (2009), *La Opinión de Granada* (2010), *Galicia Oxe* (2010), *La Tribuna de Salamanca* (2011), *El Día de Guadalajara* (2012), and *La Voz de Asturias* (2012). In spite of this, it is worth noting that new titles have also emerged, such as *Ara* (2010), in Catalan, and *Público* (2007), although the latter went into administration at the beginning of 2012.

Table 14.  
Newspaper revenues (€ million), 2005–2010

	2005	2006	2007	2008	2009	2010	Change (%), 2005–2010
Sales	1,391	1,331	1,300	1,266	1,192	1,170	-15.8
Advertising	1,328	1,427	1,461	1,103	873	827	-37.7
Others	343	334	219	194	196	206	-39.9
Total	3,062	3,092	2,980	2,563	2,261	2,203	-28.5

Source: AEDE, *Libro Blanco de la Prensa diaria*, 2010, p. 224

Finally, the funding of Spanish television has experienced substantial changes. At first sight (Table 15), revenues appear to have increased by 13.7 percent in the seven years from 2005 to 2011. But to a great extent this growth can be explained by the simultaneous growth of subsidies for public broadcasters. These rose from €660 million to €2,334 million, representing a 353 percent increase. The reason for this is the need to stabilize the financial accounts of public service broadcasters and get rid of unlimited recourse to indebtedness as a normal system of funding—a system used thus far by both national and regional government authorities to avoid subsidies and disguise public deficit. This has been particularly necessary since the Government banned advertising on public service television in 2010. However, the economic crisis has made it impossible to sustain current levels of subsidy, with substantial reductions planned for all public broadcasters in 2012.<sup>308</sup>

The general advertising crisis has also affected television. Between 2005 and 2011, advertising spending in television fell by 24 percent. However, since television is the preferred advertising medium in Spain, absolute figures have been higher compared with other sectors. As Table 15 shows, advertising revenues reached approximately €3,500 million in 2007 and dropped to around €2,300 million in 2010, meaning that a total of €1,200 million disappeared from the market in three years. Moreover, the lower advertising investment has had to be distributed among more operators with the expansion of DTT after 2009. Again, between 2009 and 2010, advertising investment stopped falling, but dropped again in 2011.

*Table 15.*  
Audiovisual services revenues (€ million), 2005–2011

	2005	2006	2007	2008	2009	2010	2011	Change (%), 2005–2011
Advertising	3,066	3,290	3,582	3,250	2,585	2,589	2,328	-24.07
TV subscriptions	1,216	1,309	1,393	1,419	1,377	1,431	1,471	+20.97
Pay per view	151	184	227	243	129	61	42	-72.19
Subsidies*	660	1,190	1,026	1,277	1,450	2,288	2,334	+353.63
Other**	584	547	564	597	427	339	283	-51.54
<b>Total</b>	<b>5,679</b>	<b>6,523</b>	<b>6,795</b>	<b>6,788</b>	<b>5,970</b>	<b>6,711</b>	<b>6,459</b>	<b>+13.73</b>

*Notes:* Subsidies are received by RTVE and regional public broadcasting services

\*\* Others include SMS, phone calls, merchandising, etc.

*Source:* CMT, *Informe Anual 2011*, pp. 144–145

The main change in the sector's funding has been due to the decision of the social democrat government to eliminate advertising from the public service broadcaster, RTVE, in 2010. As a consequence, other sources of income have been implemented to fund RTVE: an increase in direct subsidies; a tax of 3 percent on commercial television broadcasters' gross income; another 1.5 percent tax on subscription television operators and 0.9 percent tax on telecoms operators; finally, 80 percent of the tax on radio spectrum use goes to RTVE.

308. ABC, "Las radiotelevisiónes autonómicas costarán este año más de mil millones de euros" (The regional PBS cost this year more than 1 billion euros), at <http://hemeroteca.abc.es/nav/Navigate.exe/hemeroteca/madrid/abc/2012/07/27/020.html> (accessed 1 October 2012).



As a result, in 2010, the corporation had a revenue of € 1,140 million: €579 million in state subsidies, €250 million from the radio spectrum tax, €187 million from telecoms, €90 million from commercial broadcasters, and €32 million from other private activities (see section 2.1.3).<sup>309</sup>

With the elimination of advertising from RTVE in 2010, an estimated €422 million—the corporation’s advertising turnover in 2009—was freed up for the commercial DTT market.<sup>310</sup> This fact, together with the mergers around the two largest commercial broadcasters, Mediaset and Antena 3, have engendered an effective duopoly in the DTT advertising market (see section 6.1). These two companies will control the television advertising market and will thus be able to raise prices from 2012 onwards. In 2010, advertising revenues for all their channels made up 84.8 percent of all investment.<sup>311</sup>

Since we only possess the aggregated figure of state investment in institutional advertising, we are not able to conclude if there is any type of discrimination or favoritism. In any case, if the figures are analyzed, they show a considerable decline in investment. This has fallen from €209 million in 2006 to €80 million in 2010, that is, €129 million in five years—a 61.5 percent fall.<sup>312</sup> If this is compared with the overall figure on advertising investment in 2010 of €5,849 million, the percentage of state investment in institutional advertising is small (1.3 percent). Therefore, market distortion by state advertising is not significant. Table 16 shows the distribution of institutional advertising by media type.

*Table 16.*  
Distribution of institutional advertising by media type (%), 2010

	€ million	% of total state advertising spending
TV	25.9	37
Radio	9.3	13.3
Press	11.8	16.9
Magazines	1.3	1.9
Internet	7.3	10.5
Other	14.3	20.4
<b>Total</b>	<b>70.1</b>	<b>100</b>

*Source:* Ministry of the Presidency, “Informe de Publicidad y Comunicación Institucional 2010” (Report on advertising and institutional communication 2010), Madrid, 2010

309. R. Gómez, *RTVE cuadrará sus cuentas tras la revisión de las tasas* (RTVE will balance its financial accounts after tax revision), *El País*, 4 November 2011, at [http://www.elpais.com/articulo/sociedad/RTVE/cuadrara/cuentas/revision/tasas/elpepisoc/20111104elpepisoc\\_6/Tes](http://www.elpais.com/articulo/sociedad/RTVE/cuadrara/cuentas/revision/tasas/elpepisoc/20111104elpepisoc_6/Tes) (accessed 12 July 2011).

310. CMT, *Informe Anual 2010*, p. 164; PRNoticias, “El 93% de la publicidad liberada por TVE se queda en los cuatro grandes” (93 percent of the advertising freed by TVE will go to the big four), 28 February 2011, at <http://www.prnoticias.com/index.php/home/730-crisis-publicitaria/10064805-el-93-de-la-inversion-publicitaria-liberada-por-tve-se-queda-en-los-cuatro-grandes> (accessed 12 July 2011).

311. CMT, *Informe Anual 2010*, p. 163.

312. Ministry of the Presidency, “Informe de Publicidad y Comunicación Institucional 2010” (Report on advertising and institutional communication 2010), Madrid, 2011, at <http://www.lamoncloa.gob.es/NR/rdonlyres/6F9F7C99-80EE-40C9-862B-9534075E3128/160589/Informe2010.pdf> (accessed 10 January 2012).

However, this is not the complete picture. The total investment is much higher if regional and local governments are included. Each Autonomous Community and municipality has its own institutional advertising budget. For example, the Catalan government invested €53 million, although the crisis has forced the reduction of this amount to €21.5 million in 2011, a cut of 59.6 percent in just one year.<sup>313</sup>

With regard to media subsidies, direct allocations to commercial television and radio operators have not been made. However, in the 1970s and 1980s, a system of direct and indirect subsidies to the printed press was set up for the sector to change from Linotype typesetting to modern printing systems. At the end of the 1980s, all kinds of direct and indirect financial aids were eliminated, except for those related to postage and the reduced 4 percent VAT. The state has left this activity to the governments of the Autonomous Communities, which can design specific subsidies to promote their linguistic presence, although there are also subsidies in Communities with no specific language other than Spanish, and there are Communities where there are no aids despite having two official languages.<sup>314</sup>

Figures are significant for some regions. For instance, in Catalonia, €90 million was granted to the printed press in the Catalan language between 1995 and 2004, and €107.3 million between 2005 and 2010 for any media in the Catalan language. If we break this figure down, in 2010 there were grants of €19.8 million. But due to the economic crisis, the amount fell to €6.8 million in 2011, a drop of 70 percent compared with the previous year.<sup>315</sup>

These investments in institutional advertising and regional aids interfere in the market by allowing for the survival of local and regional media that would otherwise not be sustainable. They produce relationships of dependence between the regional or local political power and the media, since the advertising investments and subsidies are aimed at media outlets that are financially weaker than the large nationwide companies. Finally, the majority of the regional media subsidies are not automatic, and there is no independent authority in charge. Thus, regional and local authorities can use their discretion in allocating them.

## 6.2.2 Other Sources of Funding

There are two opposing trends in pay-TV (see Table 15). While revenues from pay-per-view (PPV) services are decreasing, revenues from subscriptions are rising steadily. However, this growth does not make up for PPV losses, and the sector as a whole is experiencing a significant decline. In 2008, pay-TV operators obtained €1,662 million for both PPV and subscriptions, while in 2011 that figure was reduced to €1,532

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313. I. Fernández, J.A. Guimerà, and A. Fernández, “Impacto de la crisis económica en las políticas de comunicación de la Generalitat de Cataluña (2011)” (Impact of the economic crisis on Catalonia Regional Government communication policies (2011), *Derecom* 8 (December 2011–February 2012) (hereafter Fernández et al., “Impacto de la crisis económica en las políticas de comunicación de la Generalitat de Cataluña”).

314. J.J. Blasco, “Las ayudas públicas a la prensa de las Comunidades Autónomas españolas en 2007: Tipología, cuantía de las subvenciones y sistemas de adjudicación” (Public subsidies to the print press in Spanish Autonomous Communities in 2007: Typology, quantity and allocation systems), *Telos* 75 (April–June 2008), pp. 95–103, at <http://sociedadinformacion.fundacion.telefonica.com/telos/cuadernoimprimible.asp?idarticulo=3&rev=75.htm> (accessed 10 January 2012).

315. Fernández et al., “Impacto de la crisis económica en las políticas de comunicación de la Generalitat de Cataluña,” p. 12.

million. The difference of €130 million almost corresponds to the fall in PPV revenues. This is explained by the expansion of premium DTT, which was introduced in 2009 and has imposed a change in the exploitation of the broadcast rights for the main football competitions. Before that time, football was exploited through PPV. Since 2009, profits are made mainly through specialized channels (Gol Televisión and Canal+ Liga).<sup>316</sup> Consequently, the situation of operators is broadly stable with respect to revenues, although with a certain downward trend.

## 6.3 Media Business Models

### 6.3.1 Changes in Media Business Models

The business models of the media operating in Spain are affected by the same trends as other Western countries: the development of free print and online media and fragmentation of audiences and advertisers alike. There are two particularly Spanish features: first, the deep economic crisis with a subsequent greater fall of advertising revenues; and second, inflated competition resulting from the strong presence of public service media in radio and television at three levels of local, regional, and state. As shown above, the printed press has been the media sector that has suffered the most, whereas television presents a more solid business model, mainly because of the oligopoly commanded by established broadcasters. In brief, the economic crisis has had a greater effect on paid media offering a stronger news content than those media more targeted at entertainment, such as television.<sup>317</sup>

With respect to other potential financial resources created through online digital technologies, the efforts of broadsheets to make their contents profitable through closed payment systems should be noted. These are editions accessible to all types of electronic devices, but especially tablets and computers. Two main online platforms group the great majority of Spanish papers: ORBYT, launched in 2010 and managed by the UNEDISA group; and Kiosko y Más, controlled by the Vocento and PRISA groups, launched a year later. Here, prices are a third cheaper than subscriptions to print editions. Due to the novelty of these platforms, there are no official records of revenues and subscribers and their share of overall media income. The Spanish media prefer to offer smartphone applications (apps) free, as such users demand breaking news and not analysis. If no smartphone app is available, or one is available only for payment, users can freely access content through the media web version.

It is also worth highlighting the diversification of products and services offered, especially in the printed press: a trend that pre-existed the downturn. This process sought to take advantage of the distribution network that papers have in Spain through newsagents, and to deliver all type of products—pull-out sections, collectibles, and special offers—along with the newspapers themselves. Revenues for these have been significant, especially before the Spanish economic crisis and among audience leaders. *El País* had a turnover of €115 million for

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316. CMT, *Informe Anual 2010*, p. 160.

317. P. Farias and S. Roses, “La crisis acelera el cambio del negocio informativo” (Crisis accelerates the change in news business), *Estudios sobre el Mensaje Periodístico* 15 (2009), pp. 15–32.

these special sales in 2005. Another aim is to maintain circulation figures so as to sell advertising for a higher price.<sup>318</sup> Finally, apart from products used in special offers, Spanish papers have for years been offering a whole assortment of other services: specialized and professional training, insurance, dating services, bookselling, and organization of events. This notwithstanding, as can be seen from Table 14, revenues for these products have also decreased substantially with the economic crisis.

Television, however, has preferred to adapt to a digital scenario and to the economic crisis, rather than to devise new business models. The larger media groups Mediaset and Antena 3 have aligned the new digital channels according to well-defined socio-demographic profiles: a young urban woman (Divinity, Nova), a young urban man (Nitro, Energy), teenagers (Neox), etc. Moreover, Antena 3 has innovated with the bundling of advertising airtime by airing adverts across all its channels at the same time, thus offering a larger audience to advertisers, and for a price lower than channel-based advertising. In response to the economic crisis, broadcasters have begun to outsource general services and rationalize costs as far as possible through restructuring and staff redundancies.

During the last four years, new service providers have appeared, and these have allowed broadcasters to delegate some of their activities. According to one Antena 3 manager, outsourcing has made it possible to eliminate 650 people from the broadcaster's staff along with 14 services, among them administrative functions, IT equipment operation, post-production, graphic and art design, and even the channel's archive. According to this model of outsourcing policy, commonly used by Gestevisión Telecinco, the conditions demanded of service providers are: flexibility, lower costs, and financial capacity. Antena 3 says that the aim of outsourcing is not only grounded on an economic rationale but also on the need to improve service quality.<sup>319</sup>

## 6.4 Assessments

The digital transition in Spanish television, radio, the internet, and print has considerably increased the media offering, and more broadcasters have come into being. However, some of this rise in external pluralism is questionable, since the majority of the new operators are owned by already existing analog broadcasters or press groups. Moreover, the benefits of this abundant offering have been short-lived. The excessive optimism of managers and politicians, and, above all, the beginning of the economic crisis in 2008, have caused this media bubble to burst. As a consequence, in the television sector there is a consolidation process under way, which puts the sector back in the situation prior to digital transition: two large private operators controlling the advertising and the audience market. This notwithstanding, the present situation presents two new traits when compared with 2005: a public service broadcaster with no advertising, and an array of small DTT channels that are mostly rented to foreign media groups.

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318. J. Pérez Dasilva and L. Iturregui, "La promoción de ventas en la prensa diaria española: el caso del Grupo Prisa" (Special offers in the Spanish dailies: the PRISA group case study), *Textual & Visual Media: revista de la Sociedad Española de Periodística* 3 (2010), pp. 199–216.

319. Fernando Costi, Antena 3's manager of internal auditing and processes' control, speaking at the IV Daily Conference of the Audiovisual Sector, IESE, Barcelona, 26 October 2011, at [http://www.iese.edu/es/files/Resum\\_IV\\_Jornada\\_Audio\\_tcm5-72849.pdf](http://www.iese.edu/es/files/Resum_IV_Jornada_Audio_tcm5-72849.pdf) (accessed 11 December 2011).

Digitization has not allowed the print sector to skip its own economic crisis due to the strong fall in advertising revenues. As a result, external pluralism has been damaged by the closure of several titles. Equally, lay-offs and the ensuing employment instability may have had a negative impact on journalistic quality. The radio sector has remained stable, highly concentrated on the PRISA group, and with no new actors or losses. Since radio digitization is blocked, the media bubble has been far less intense, and takeovers and mergers have been scarce. All in all, the initial positive assessment of digitization with respect to pluralism in Spain has been strongly undermined by the economic crisis in the media.

In television, if the public service broadcasting model is undermined and its funding reduced, one of the pillars of good-quality news content in Spain could be threatened. The other source of good-quality news is the print press. The profound crisis it is undergoing will directly affect the quality and quantity of its content. New strategies are being explored, such as an increase in retail prices and attempts to monetize online readership through an array of devices.

# 7. Policies, Laws, and Regulators

## 7.1 Policies and Laws

### 7.1.1 Digital Switch-over of Terrestrial Transmission

#### Access and Affordability

In Spain, television signals are received mainly through terrestrial airwaves. In 2010, 86.8 percent of the population switched on their televisions this way every day.<sup>320</sup> Consequently, the analog switch-off in April of that year was a challenge for the television industry, telecoms operators, and citizens alike. This was especially so, since the initial situation in 2005 was troubling. In spite of Spain having pioneered the DTT launch in 2000, by 2005 only 3.6 percent of Spaniards had a DTT decoder, either integrated into or external to the television set.<sup>321</sup> Within five years, DTT spread to cover the whole country in what turned out to be a technological transition with hardly any mishaps. From a technological point of view, the completed process can be qualified as successful.

The regulation of DTT licensing was analyzed in section 5.1. This section will deal with regulatory actions other than the granting of licenses, including: coverage deadlines during the DTT transition processes, provisions for securing DTT access to citizens under risk of exclusion, the program for the distribution of decoders, citizens' participation in the design and implementation of DTT public policy, and how the public interest was protected, among other things.

Spain was one of the European pioneers in broadcasting DTT in 2000 after the UK (1998) and Sweden (1999). A new legislation and a new national spectrum plan were developed by the PP government from 1997 to 1999. DTT policy strategy was to open the market to new operators, to foster platform competition and to diminish the power of the three existing commercial operators: Telecinco, Antena 3, and Canal+. Therefore, the first public tender awarded 14 digital channels to a pay-DTT platform, Onda Digital, a firm whose main shareholder was Retevisión (a telecoms company specializing in broadcasting transmission

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320. INE, "Encuesta sobre equipamiento y uso de las TICs 2010."

321. AIMC, *Marco General de Medios en España 2012*, p. 64.

services). The three commercial broadcasters already in operation were awarded only one digital channel each. Another digital channel was given to Veo TV and one more to Net TV. Finally, two digital channels were reserved for RTVE.

The pay-DTT platform was renamed QuieroTV and started to broadcast in 2000. However, the competition from digital satellite operators such as Canal Satélite Digital and Vía Digital was too strong. Satellite offered more channels and better content. In addition, the coverage of DTT and DTT household equipment was still too poor to foster a massive take-up of the service. QuieroTV obtained a maximum of 200,000 subscribers in 2001. It finally ceased operations in 2002 with only 72,000 subscribers. From then until 2005, DTT continued in Spain but with little growth, as it offered essentially the same channels as the analog counterparts (with the exception of two new channels, VeoTV and Net TV).<sup>322</sup>

After the failure of Quiero TV, the social democrat government decided to relaunch DTT as an FTA service through the participation of existing analog operators, Telecinco and Antena 3; the transformation from a premium to an FTA channel of former Canal+; and the addition of a new operator, La Sexta, in addition to the two digital broadcasters already in operation, Veo TV and Net TV. They were offered an increase in their channel number on condition that they fulfilled some minimal requirements regarding program scheduling and DTT development. A detailed migration calendar was finalized, and efforts focussed on the adaptation of collective antennas. Finally, it was also considered to be of prime importance to design a DTT publicity campaign addressing the general public.

This action plan found its first regulatory expression in January 2005 with Law 10/2005 on urgent measures for the development of DTT, the liberalization of cable television, and the promotion of pluralism.<sup>323</sup> This reorganized the licensing system at national, regional, and local levels (see section 5.1). Soon afterwards, Royal Decree 944/2005<sup>324</sup> established the Digital Terrestrial Television National Technical Plan, which detailed the different legal measures to facilitate digital transition: the analog broadcast deadline was moved forward from 2012 to 3 April 2010; the structure of licenses both during the transition period and after the analog switch-off was settled, along with how multiplexes should be managed; the characteristics of DTT receivers were defined; and an ambitious agenda of deadlines was set up for public and private operators to comply progressively with DTT coverage: the public service channels were required to expand coverage from 80 percent in January 2006 to 98 percent by April 2010, while the commercial channels were required to grow from 80 percent to 95 percent over the same period.

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322. R. Suárez, “Las políticas públicas de la televisión digital terrestre en la UE. Estudio comparado de Suecia y España” (Digital terrestrial television public policies in the EU. A comparative study of Sweden and Spain), PhD dissertation at the Universitat Pompeu Fabra, 2009, p. 425, at <http://hdl.handle.net/10803/7263> (accessed 1 June 2011) (hereafter Suárez, “Las políticas públicas de la televisión digital terrestre en la UE”).

323. Law 10/2005 on urgent measures to foster digital terrestrial television, on the liberalization of cable television and on the promotion of pluralism, *BOE* no. 142, June 2005.

324. Royal Decree 944/2005 on the National Technical Plan for Digital Terrestrial Television, *BOE* no. 181, 30 July 2005, at <http://www.boe.es/boe/dias/2005/07/30/pdfs/A27006-27014.pdf> (accessed 14 September 2011).

It is worth highlighting that Spain started from a favorable position, since DTT coverage was already 80 percent in 2005, thanks to the efforts of Quiero TV.<sup>325</sup> However, the difficulty of achieving the high coverage levels required by law in such a mountainous country required greater efforts to extend digital transmitters, relay stations, and reception antennas.

The DTT transition scheme concerned three different geographic areas. First, Area I, covering 96 percent of the population (98 percent for the public service state-wide broadcaster). Within Area I, broadcasters and platform operators had to finance the (compulsory) switch-over by themselves; no public financing was made available. In Area II, covering 2.5 percent of the population, digitization was not privately profitable, and the Government designed an aid plan of approximately €196.3 million. According to the Spanish authorities, in the absence of any such measure, a viewer in this area would not have access to terrestrial broadcasts. Finally, an area with 1.5 percent of the population was considered so remote that it could only be reached by satellite technology.

The Government provided for a must-carry obligation on the broadcasters to ensure that they made their channels available to the satellite operator, Abertis. The problem with this platform is that it works under conditional access, and as such, it is not free, it does not allow HD, nor does it include premium or regional channels. For this reason, the plan concentrated on supporting DTT provision in area II. All the Autonomous Communities, except Castilla-La Mancha, which granted monetary aid directly to the platform operator, launched tenders for the provision and installation of hardware to digitize existing transmission centers or build digital emission centers *ex novo*. The regions provided €136.1 million from their direct budgetary funds, while the central government contributed €60.2 millions in the form of interest-free loans to the regions. They are repayable in a number of years (usually 15) with a three-year latency period.<sup>326</sup>

In 2010, Astra denounced the plan in its application to the European Commission as illegal aid to a DTT platform operator in a *de facto* monopoly held by Abertis. In Astra's view, to meet the objective of offering digital FTA television to viewers in Area II, the Government had to make a choice between investing in the digitization of the analog terrestrial network and making funds available to broadcast such services via already existing alternative digital platforms. According to Astra, it would be in a position to broadcast FTA channels via satellite at a fraction of the amount spent on the terrestrial switch-over. The European Commission has yet make a statement on the legality of this aid.

Thanks to the financial support and the collaboration among the central and regional governments and the network operator Abertis, expectations were far exceeded at the end of the process in April 2010: public service channels reached a coverage of 98.79 percent and commercial channels 98.36 percent. The population without coverage was 1.21 percent and 1.64 percent, respectively (about 660,000 people). DTT coverage was at that time higher than that of France (88 percent), the UK (80 percent), and Italy (80 percent).<sup>327</sup>

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325. Impulsa TDT, *Informe Final 2010*, pp. 50–51.

326. European Commission, "Procedures relating to the implementation of competition policy. State aid C23/10—Aid for the deployment of digital terrestrial television (DTT)," *Official Journal of the European Union* C 337/17, 14 December 2010.

327. Impulsa TDT, *Informe mensual Marzo 2010* (Monthly Report March 2011), no. 38, Madrid, 2011.



It is also worth noting that the analog switch-off was made gradually, in four phases. Several distinct technical projects were grouped for the transition to digital technologies, and these in turn were distributed in different geographical areas. The strategy was to verify the viability of the technology and to foresee any possible difficulties before the main part of the switch-off took place at the beginning of April 2010 (see Table 17). Except for some specific problems, the deadlines were met.

*Table 17.*

Phases of the DTT transition process (no. of technical projects and people affected)

Phase no.	Deadline	Population affected	Total population
0—Projects	31 December 2008	447,000 (1%)	447,000 (1%)
A—32 projects	30 June 2009	5,181,000 (11.6%)	5,628,000 (12.6%)
B—25 projects	31 December 2009	8,847,000 (19.8%)	14,475,000 (32.4%)
C—33 projects	03 April 2010	30,230,000 (67.6%)	44,705,000 (100%)

Source: Ministry of Industry, press release, 7 July 2009<sup>328</sup>

Consequently, from the coverage perspective, the Government considered that the risk of discrimination or exclusion in DTT reception was small, since the overall coverage was high. The key question lay in citizens' reception equipment. If households lacked antennas, decoders or built-in digital tuners, the effort to increase coverage to the maximum extent possible would be in vain. In this sense, the situation was not hopeful in 2005: only 3.5 percent of Spanish households had a DTT decoder at this time.

However, the economies of scale achieved by producers and the natural replacement of television sets, which was accelerated by the demand for flat screens, made prices go down significantly, both for independent decoders (a 57.9 percent fall between 2005 and 2009) and for sets with a built-in decoder (a 62.1 percent drop).<sup>329</sup> This, together with the establishment of a switch-off deadline, explains why DTT reception equipment spread so quickly among the population and reached 77.4 percent coverage by December 2009.<sup>330</sup> With regard to the checking of antennas needed for the change of frequencies, households and professional installers renewed equipment at a fast pace. By 31 December 2009, 97.5 percent of collective antennas and 76 percent of household antennas had been adapted to receive DTT.<sup>331</sup>

### Subsidies for Equipment

In spite of the excellent coverage and the increase in appliances and equipment able to receive DTT, a significant percentage of the population risked being excluded from access. To avoid this, two main actions were taken: an aid plan based on free distribution of DTT receivers, and specific regional plans to fund

328. Cited by Suárez, "Las políticas públicas de la televisión digital terrestre en la UE", p. 521.

329. Impulsa TDT, *Informe Final 2010*, p. 80.

330. Impulsa TDT, *Informe Final 2010*, p. 92.

331. Impulsa TDT, *Informe Final 2010*, pp. 56, 58.

the installation of satellite equipment for the reception of DTT by people living in sparsely populated or mountainous areas.

The aid plan for people at risk of social exclusion consisted in the free distribution by the central government of 150,000 decoders to people aged over 80, to people over 65 but having a high level of dependency, and to people with a visual or auditory disability of or above 33 percent. Moreover, this group could claim free installation if they could justify that they were unable to do it using their own resources.<sup>332</sup> The distribution of decoders was made gradually, following the various phases of the analog switch-off. In Spain, contrary to other states, the funding of decoders for the population at large was not an option (with the exception of some Autonomous Communities such as Navarre).<sup>333</sup> The decrease in the decoders' price and the replacement of television sets actually made it unnecessary to allocate public funds for this.

As for the 1.5 percent of the population with no DTT coverage, the law favored the satellite broadcast option.<sup>334</sup> The individual cost of installing such equipment was about €400–500. In partnership with industry (private and public television outlets and the state-wide network operator), the government set up Impulsa TDT, to foster DTT take-up among all stakeholders. Grouping the main television broadcasters along with the network operator Abertis, Impulsa TDT supplied the Autonomous Communities with 2,400 tuners via satellite, for distribution among all those households left out of terrestrial coverage. Moreover, the Autonomous Communities announced subsidies for these satellite installations in Navarre, Asturias, and Catalonia (financing around €175–250 of the individual cost). It is difficult to assess whether these measures have been effective and sufficient, since no data on their social impact have been found. In any case, there have been no public protests about the planning and payment of subsidies, or their lack or scarcity. In contrast to this, there are frequent protests about the reception difficulties that people living on the coast or in the mountains still experience.

In a separate plan to subsidize ICT equipment and internet subscriptions, another program, Plan Avanza, allocated €6,500 million between 2005 and 2009 for—among other things—loans at low interest rates and long repayment terms for consumers to access terminals and internet subscriptions.

### Legal Provisions on Public Interest

Law 10/2005 provided for specific actions to promote DTT as a condition for obtaining digital licenses (see Table 18). These conditions sought to protect the public interest. The problem is that they were imposed on existing commercial broadcasters—the transition was designed with them in mind. Promotional measures were relatively easy to implement, except for the expansion of coverage, which came at high cost in a country with such a complicated terrain. This notwithstanding, this cost had to be absorbed by Abertis, the most important signal transport company, as seen in section 5.

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332. Impulsa TDT, *Informe Final 2010*, pp. 195, 207.

333. Impulsa TDT, *Informe Final 2010*, p. 65.

334. Law 7/2009 on urgent measures regarding telecommunications, Art. 1, *BOE* no. 161, 4 July 2009.

Table 18.

DTT-related conditions for digital licenses

To obtain an additional channel	To obtain two additional channels
Start DTT broadcasts before 30 November 2005	Offer an innovative program schedule: original content, 16:9 format, subtitling, and dual system
Supply the information needed for configuring an EPG	Promote DTT on all channels: at least one advertisement on prime time per month per quarter
Participate in a new association to promote DTT	Provide interactive applications in first year of service
Achieve a 1 percent rise in coverage of the digital multiplex to be assigned in the second phase	Achieve gradual shut-down of analog broadcasts according to the migration plan, or broadcast at least 30 percent of drama, animation, and documentaries in two official languages

Source: Royal Decree 944/2005, transitory provision 4

In order to obtain new digital programs, each broadcaster had to prepare a detailed plan for the implementation of these measures and submit it to the Government three months after the publication of the Technical Plan. Commercial broadcasters accepted these measures and asked for an increase in their digital channels through the renewal of their license contracts. Since this process was at best opaque, new entrants were precluded from joining the digital television market. According to the researcher Roberto Suárez, the available evidence pointed to the existence of:

a close cooperation between the sector agents and the Ministry of Industry, Tourism and Commerce. Despite the result being positive, it is worth asking about the transparency of the process. It is questionable that the new Technical Plan [DTT 2005] already defines the post-switch-off setting, in which the door has been closed to new broadcasters. Perhaps it was the price that the Government had to pay to ensure the collaboration of analog broadcasters.<sup>335</sup>

As he explains, it is obvious that among these conditions the most important for the public interest was to ensure an innovative program schedule, because it could have made a very positive contribution to the development of the DTT offering and thus made way for more diversity and quality. However, since no precise criteria exist to assess whether the conditions have actually been met, and in the absence of an independent regulatory authority that could have controlled the process, the submitted plans have not been implemented.

This has also been the case with regard to interactive applications. The majority of broadcasters present a minimal offering of interactive services, aimed only at compliance with the law. Equally, there is low utilization of the possibilities of EPGs, dual sound and subtitling are rarely offered, and parental control is practically non-existent, as is audio description for people with visual disabilities.<sup>336</sup> In a September 2011 survey, four out of 10 television viewers said that DTT had frustrated their expectations; the main weak points were poor-quality programming, the excessive repetition of broadcasts, and tuning difficulties. Among

335. Suárez, "Las políticas públicas de la televisión digital terrestre en la UE," p. 480.

336. Asociación de Usuarios de la Comunicación (AUC), "Balance de la AUC sobre la TDT tras el apagón analógico" (AUC's Assessment of DTT after the analog switch-off), 24 May 2010, at <http://www.auc.es/Documentos/Comunicados/Prensa/docnot2010/may04.pdf> (accessed 15 October 2011).

the main positive points were the growth in the number of channels and programs on offer and their variety, along with improvements in image and sound.<sup>337</sup>

## Public Consultation

Public interest was thus set aside in favor of private operators and the industries providing the equipment. In fact, citizen participation has been practically non-existent throughout the whole process. Civil society organizations have not been engaged in the drafting of public policy for DTT implementation and assessment because the Government preferred to coordinate with media industry agents to ensure the success of the digital transition. Only Catalan cultural associations from the Valencian Autonomous Community and the Balearic Islands asked their respective authorities to make Catalan regional public service channels available in their territories. This eventually happened in the Balearic Islands, in exchange for broadcast reciprocity, but it did not happen in the Valencian community. There, relay stations broadcasting the Catalan public service corporation channels were shut down. These closed relay stations were funded not by Government but by the Catalan cultural associations mentioned earlier.

Another instance of the Government's preference for industry over public interest was the DTT instalment association. The Government was aware that DTT success depended mainly on the participation of media sector agents, and it was for this reason that membership of such an organization was among the compulsory requirements for an operator to obtain an additional digital channel (see Table 19). Consequently, on 18 October 2005 RTVE, Telecinco, Antena 3, Sogecable, Net TV, Veo TV, La Sexta, FORTA (including all the public service regional broadcasters), and the network operator Abertis Telecom set up the Association for the Instalment and Development of DTT in Spain (Impulsa TDT). It set up a specialized website for the media industry and the general public; published reports on DTT penetration; set up a phone helpline; ran advertising campaigns, along with information sessions for professional groups; and fostered collaboration with reception equipment producers and installers.<sup>338</sup> But there was hardly any participation by civil society organizations in Impulsa TDT.

### 7.1.2 The Internet

#### Regulation of News on the Internet

Freedom of expression is regulated in Spain by Art. 20 of the Constitution of 1978, democratically passed after 40 years of Franco's dictatorship. Article 20.a recognizes "the right to freely express and spread thoughts, ideas and opinions through words, in writing or by any other means of reproduction." The last part, "by any other means of reproduction," thus includes the internet as a reference for the diffusion of ideas and opinions. Art. 20.d defines "the right to freely communicate or receive truthful information by any means of dissemination whatsoever."

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337. Asociación de Usuarios de la Comunicación (AUC) and iforTV, "Informe: ¿Cómo valoran los espectadores la implantación de la TDT?" (Report: How do TV viewers regard DTT implementation?), September 2011, at [http://www.auc.es/Documentos/Documentos AUC/Docum2011/2011\\_09\\_INFORME\\_COMO\\_VALORAN\\_LOS\\_ESPECTADORES\\_LA\\_IMPLANTACION\\_DE\\_LA\\_TDT.pdf](http://www.auc.es/Documentos/Documentos AUC/Docum2011/2011_09_INFORME_COMO_VALORAN_LOS_ESPECTADORES_LA_IMPLANTACION_DE_LA_TDT.pdf) (accessed 15 October 2011).

338. Suárez, "Las políticas públicas de la televisión digital terrestre en la UE," pp. 469–470.

Again, we see a cautious approach, since the Constitution does not make this right dependent on any particular medium. Consequently, the regulation of online news content is no different from that of the print press, radio, or television. Equally, the Constitution specifically declares that “the exercise of these rights may not be restricted by any form of prior censorship” (Art. 20.2); hence, prior internet censorship is explicitly prohibited. However, there are some limits to these rights: the rest of the fundamental rights established in the Constitution, and especially, the “right to reputation, to privacy, to the [preservation of the good] own image and to the protection of youth and childhood” (Art. 20.4). Thus, there is no specific regulation for the spread of information beyond that enshrined in the Constitution and the various laws limiting the freedom of information and expression that affect any type of media. This means that in Spanish law, freedom of expression and the right to impart or receive information are identical, regardless of the media used to exercise them, be this, for example, access through a mobile or a fixed internet connection.

### Legal Liability for Internet Content

With respect to responsibility for content published on the internet, the Government applied the European Commission Directive on Electronic Commerce (2000/31/CE) through the Law on Information Society Services and Electronic Commerce (Law 34/2002).<sup>339</sup> This law has two guiding principles: first, real-world laws must be applied to the online virtual world; and second, collaboration between telecoms operators and authorities to achieve an effective application of these laws. The definition of information society services under the law is sufficiently ample to include the spread of news and facts through specific webs and blogs. As for responsibility for content, Art. 13.1 provides that “Information Society Service operators are subject to civil, penal and administrative responsibility, established with general character in the legal system, without prejudice from the dispositions of this law.”

Consequently, these websites are regulated according to the general law and their limits are the same as those applying to offline media, that is, fundamental constitutional rights and the laws underpinning them. They are absolutely responsible for their own content, unlike internet service providers, offering for instance hosting or simple content transmission.

Law 34/2002 establishes the “notice and take down” principle, that is to say, it does not consider those intermediaries responsible for the presence of illegal content on the web, so long as the internet service providers, telecoms operators, web hosting companies, and any other intermediary do not actually know about the existence of the illegal content. Once they are made aware of them, they should then eliminate them. Behind this principle is the assumption that the service provided by these intermediaries is passive in terms of content-production.<sup>340</sup>

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339. Law on Information Society Services and Electronic Commerce 34/2002, BOE no. 166, 12 July 2002, at <http://www.boe.es/buscar/doc.php?id=BOE-A-2002-13758> (accessed 10 September 2012).

340. M. Peguera, “Internet Service Providers’ liability in Spain. Recent case law and future perspectives,” *Journal of Intellectual Property, Information Technology and E-Commerce Law* 1(3) (2010), p. 151, at <http://www.jipitec.eu/issues/jipitec-1-3-2010/2823> (accessed 18 December 2011).

With regard to the online propagation of extremist ideas and ideologies, involving incitement to xenophobia, racial hatred, religious intolerance, terrorism or, indeed, anorexia,<sup>341</sup> special police units at state or regional level<sup>342</sup> are authorized to investigate such sites, which may be shut down by legal order for breaching the Penal Code.

There are other indirect limits on media that use websites as a technical vehicle for the publication of their information, due to strict data protection legislation, which allows no exceptions for journalism relating to the treatment of personal data. This is in spite of the EU Directive regulating personal data protection (95/46/CE), which provides some exceptions in the case of journalistic work (Art. 9). As a result, conflicts between journalists and issues of data protection must be settled in the courts, with a high cost in time and money for both journalists and media companies.

According to Organic Law 15/1999 on the the Protection of Personal Data,<sup>343</sup> a blog or website is not considered an “accessible public source” from which data can be extracted, classified, and given meaning. In this way, the law prevents and penalizes the publication of personal data on the internet even if these are on a press or broadcast website which their offline versions are entitled to publish. For instance, if a journalist uses “accessible public sources” recognized by law—such as the census, phone books, professional lists, official gazettes, and/or the media themselves—and publishes on his or her web or blog a list with the names of politicians, union leaders, or lawyers judged for corruption in their region, he or she can be fined €300,000. According to the Data Protection Agency (*Agencia de Protección de Datos*), the internet must be considered as a group of automated files regulated by the law, and not “an accessible public source.” As such, journalism based on socio-demographic data or lists of names cannot be published without the knowledge of the people affected.

According to several authors, here, current case law limits the freedom of information and provokes legal uncertainty in the field of online written journalism, because the courts understand that in principle a third party must be denied access to personal data not available from “accessible public sources” when they are not authorized by the people affected or the law.<sup>344</sup>

Consequently, journalism is harmed. A paradigmatic case is the magazine *OCU Salud*, fined €6,000 in 2005 for publishing in its online issue (no. 48) research in which it showed, with all the relevant names, how certain doctors prescribed unnecessary antibiotics and some chemists sold these same antibiotics without

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341. See <http://www.marketingdirecto.com/actualidad/digital/350-paginas-web-clausuradas-por-incitar-a-la-anorexia-y-a-la-bulimia>; <http://interpain.net/el-racismo-y-la-xenofobia-en-internet-es-delito-a-veces-parece-que-no.html> (accessed 15 January 2011).

342. See [https://www.gdt.guardiacivil.es/webgdt/home\\_alerta.php](https://www.gdt.guardiacivil.es/webgdt/home_alerta.php); <http://www.gencat.cat/mossos/serveis/consells/InternetSegura/Contacte.html> (both accessed 15 January 2011).

343. Organic Law 15/1999 on the the Protection of Personal Data, BOE no. 298, 14 December 1999, at <http://www.boe.es/buscar/doc.php?id=BOE-A-1999-23750> (accessed 12 October 2012).

344. P. Rodríguez, “Periodismo y datos publicados en internet: el concepto de ‘fuente accesible al público’ y otras restricciones de la Ley de Protección de Datos Personales” (Journalism and data published on the internet: the concept of ‘public accessible source’ and other restrictions of Personal Data Protection Law), *Textual & Visual Media* 3 (2010), pp. 217–238.

prescription.<sup>345</sup> The punishment was ratified by the Constitutional Court, which found that the list was an “intrusion in the right to informative self-determination of the doctors and pharmacists that had violated the legislation currently in force and although that intrusion follows a legitimate objective ... it could have been reached by other means.”<sup>346</sup>

Content and news distribution by mobile devices are not explicitly regulated; as such, they remain under general legislation. If this type of content consists of radio and television transmissions for mobile devices, the regulation applicable is LGCA 2010. Under this law, a “mobile television audiovisual communication service” (*servicio de comunicación audiovisual televisiva en movilidad*) is defined as one offered for watching content using a mobile device (Art. 2.2). Since it is an “audiovisual communication service,” there is editorial responsibility for the contents and services provided.

Contrary to this, if the news content transmitted does not belong to television or radio services and circulates through telematic networks, then they are regulated by Law 34/2002 on information society services and electronic commerce. This law provides for the obligation to identify the site, keep traffic data, and inform users on security and the use of illegal content. For any other question, information society service providers are subject to general civil, penal, and administrative responsibility (Art. 13.1).

## 7.2 Regulators

### 7.2.1 Changes in Content Regulation

The lack of a Spanish IRA in broadcasting at state level has been an exceptional case in Europe. Since the mid-1990s, several civil society groups have asked successive governments to set up such a body. However, governments’ reluctance to release broadcasting power to an independent authority and the partisan, party political use of this power have made it very difficult. Right-wing parties and media companies feared this body would become a censorship body, putting at risk media freedom and free enterprise. In accordance with this view, they saw their fears confirmed by the Catalan broadcasting authority. The CAC issued a report opposed to the content of the Catholic conservative radio network, COPE, in 2005,<sup>347</sup> and decided not to grant them two licenses in Catalonia in 2008, despite the fact that they had already been operating through a pilot project since 2000. These two actions were publicly debated and used as a tool of national (Catalonia vs. Spain) and ideological (left vs. right) confrontation. Among the left parties, there was some opposition as well: they feared an independent body would prevent a strong state from using the media and licensing to make social change possible.

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345. AEPD sanction decision 5 September 2005, confirmed by the 12 January 2007 judgment of the First Section of the Administrative Litigation Division of the National Court.

346. Auto 155/2009 of 18 May 2009 of the Third Section of the Constitutional Court.

347. Consell de l’Audiovisual de Catalunya (CAC), Acord 192/2005 (Agreement 192/2005), 19 December 2005, at [http://www.terra.es/personal3/miquel\\_iceta/cac\\_cope.pdf](http://www.terra.es/personal3/miquel_iceta/cac_cope.pdf) (accessed 12 July 2011).

These factors also explain the short life of Madrid's regional audiovisual authority (2001–2006). The rightist regional government decided that nobody could regulate freedom of expression. Only regions with a special sensitivity towards audiovisual matters, or keen to be politically progressive, created independent regulatory authorities for their broadcasting sector, such as Catalonia (1996), Navarre (2001, but closed in 2011), and Andalusia (2004). Valencia has stated its intention to set up an IRA, whereas Galicia has a consultative body on telecoms and audiovisual matters.

The situation changed when PSOE's social democrats won the 2004 election. One of their main stated policy goals was to develop a new and more neutral broadcasting model. One of the elements of this strategy was to create an IRA as a key step to changing the traditional political instrumentalization and clientelism of the Spanish broadcasting sector. Other steps were to change the management, funding, and structure of the public, nationwide broadcasting corporation, RTVE, and finally group and organize a thus far patchy regulation system into a new general broadcasting law, LGCA 2010. Even if the reform process has not been without a certain amount of delay and disorder, RTVE has changed fundamentally since the law was enacted in April 2010, and it has provided for the effective creation of a new IRA. The State Audiovisual Media Council (*Consejo Estatal de Medios Audiovisuales*, CEMA) was to be given large powers, enough resources, and independence. This new body was to adopt the distinction between linear and non-linear content already established by the EC's Audiovisual Media Services Directive (AVMSD),<sup>348</sup> including video on demand.

LGCA 2010 provides that CEMA would have two organs: the Directive Council, with one president, two vice-presidents, and seven councillors, appointed by a parliamentary majority of three-fifths, and the Consultative Council, a representative organ in which the president, with no voting power, would participate together with representatives from the media, producers, advertisers, media users, and consumer associations.

However, the lack of consensus between the two main political parties blocked the creation of this independent authority in 2011, and the new government decided to shelve this unborn body. A new, big cross-sector independent regulatory authority is planned: the National Authority for Markets and Competition (*Comisión Nacional de los Mercados y la Competencia*). Audiovisual matters are supervised by the Minister of Industry until this new body becomes operational.<sup>349</sup>

## 7.2.2 Regulatory Independence

The CAC and the CAA are currently the only independent audiovisual authorities, with the peculiarity that both of them are regional. A third one, the Audiovisual Council of Navarre, was shut down in 2011 by the government of the Autonomous Community for financial reasons. Therefore, media content regulation at the national level is still in the hands of the Ministry of Industry—just as it was 20 years ago.

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348. Directive 2010/13/eu of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), *Official Journal of the European Union*, L95/1, 15 April 2010, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:EN:PDF> (accessed 20 June 2012).

349. Presidency Press Office Press Release, "Informe sobre la reforma de los organismos supervisores" (Report on reform of independent authorities), 24 February 2012, at <http://www.lamoncloa.gob.es/ConsejodeMinistros/Enlaces/240212-enlacesupervisores.htm> (accessed 10 October 2012).



Regarding the new non-linear services, LGCA 2010 incorporated the AVMSD, and provided a set of definitions of audiovisual media services based on the European approach. The CEMA was to supervise and control both linear and non-linear services, but as CEMA is now off the agenda, this duty has passed to the Ministry of Industry. The Catalan CAC regulates these services in Catalonia, in accordance with the 2005 regional audiovisual law. The latter was passed prior to the AVMSD, but it followed the main principles already being debated in the Directive's drafting process, including content control of non-linear services. However, no such principles apply to the CAA.

The most important elements for safeguarding the independence of the regulatory bodies in Spain are common to both authorities (CAC and CAA):

- Large majorities in Parliament to appoint board members (two-thirds for CAC and three-fifths for CAA). These large majorities require a consensus.
- Terms of office longer than electoral periods. The normal electoral cycle in Spain lasts four years. CAC board members enjoy at least six years in office, five years for CAA board members.
- A member's dismissal requires the same parliamentary majority as that of his or her appointment (CAC), or a long internal procedure to prove that a member has failed to fulfill his or her obligations in a serious way (CAA).
- Financial, organizational, and human resources autonomy.
- No governmental intrusion into decisions made by the councils. A council's final statement can only be appealed against in the courts.

However, we can find bad and good practices in Spanish IRAs. The CAA's chair resigned in May 2008, claiming that political parties were unwilling to respect the independence of the council. Parties were introducing their own agendas through certain members of the board who had been chosen following the parliamentary quota principle. Just before the resignation date, the CAA approved a decision concerning the lack of pluralism of the regional public broadcaster RTVA in an electoral period, thanks to the deciding vote of the president.<sup>350</sup> As a consequence, the pressure on the president mounted and he eventually decided to resign when it became clear that there was no will to protect the independence of the council. Another bad practice in the CAA is the thwarting by the majority of the board members, appointed by the social democrats in the regional parliament, of particular issues that do not concur with the majority opinion. Recently, the Andalusian Supreme Court has judged this procedure to be illegal.<sup>351</sup>

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350. CAA, "Decisión del Consejo Audiovisual de Andalucía sobre el cumplimiento de la misión de servicio público por la RTVA durante el periodo electoral para las elecciones generales y autonómicas de 9 de marzo de 2008. (Incluye votos particulares y explicación de voto)" (Audiovisual Council Decision of Andalusia on the fulfillment of the of public service mission by RTVA during the electoral period for general and regional elections, 9 March 2008. (Includes individual votes and explanations of the vote)), at [http://www.consejoaudiovisualdeandalucia.es/sites/default/files/decisiones/Decision\\_2008\\_01\\_SP\\_RTVA.pdf](http://www.consejoaudiovisualdeandalucia.es/sites/default/files/decisiones/Decision_2008_01_SP_RTVA.pdf) (accessed 10 January 2012).

351. Andalucíainformación.es, "La Guerra vuelve al Consejo Audiovisual" (War comes back to the Audiovisual Council), at <http://www.andaluciainformacion.es/portada/?a=111624&i=1&f=0> (accessed 10 January 2012).

A growing bad practice in the CAC is the fact that many of its board members are more connected with political parties than with independent experts, contrary to official eligibility requirements. The former president, Josep Carbonell, was a Catalan social democrat MP before his appointment. The current president, Ramon Font, used to be a journalist and media manager, but in 2006 was the head of the regional government's press office. The vice-president, Domènec Sesnilo, was a regional MP before his appointment; Santiago Ramentol, CAC's secretary, was head of the Audiovisual Media Office of the regional government. Other former regional MPs and current CAC board members are Dolors Comas, Josep Micaló, Esteve Orriols, Josep Pont, and Fernando Rodríguez, and Elisenda Malaret was a former state MP. It has to be noted, though, that the law does not forbid this situation, on condition that party allegiances no longer formally apply: no member of the board can be part of the top regional government staff or a regional MP, or hold a senior or management position in a political party, labor union, or business organization.

A safeguard for the CAC's independence was the decision by the regional government to dismiss any board member if a majority of two-thirds in favor of the dismissal is achieved. This norm was approved in 2005. It implies that to renew or maintain membership, appointees must be very careful with political parties: being a board member is an exclusive position.

On the other hand, an example of CAC good practice was the first process to grant 83 FM radio licenses in May 2008. It was the first time in Spain that an independent body was entrusted to design and implement the whole process. No direct political intervention or clientelism was possible. The Catalan government and political parties had the courage to delegate some of their more important powers to another institution. However, CAC's final decision was controversial, since some media groups identifying with Spanish right-wing parties were excluded. However, the board member connected to the Spanish right-wing PP was in line with the final agreement. In the end, there were no voices of dissent heard on the board.

### **7.2.3 Digital Licensing**

The state normally uses the same procedure for granting radio and television licenses: the reservation of frequencies and a public tender. State organs start the procedure and execute it, but there is a tendency to favor those media companies that are ideologically close. The strength of television broadcasters is growing. In Spain, their economic and political power is able to directly influence the license-granting system. UTECA, the association grouping commercial television operators (see section 2), has succeeded in precluding the entrance of new broadcasters to the DTT market. Efforts to change this structure, such as those made by the first DTT platform, Quiero TV, did not bear fruit.

The launch of DTT allowed for the inclusion of new broadcasters close to the Government. In this way, under the PP's rightist executive headed by José María Aznar, the two FTA DTT licenses were granted to the Vocento and UNEDISA groups (see sections 5 and 6). The rest were given to Quiero TV. The two main commercial broadcasters, Antena 3 and Telecinco, were left out, which explains their lack of enthusiasm in this initial DTT phase. When, five years later, the PSOE government decided to relaunch DTT in 2005, groups ideologically related were privileged once again.

Soon after this relaunch, Díaz Nosty put forward the notion that:

negotiation practices between media groups and the Government have been institutionalized in Spain in terms of reciprocal action and reaction ... Likewise, turbulences have been usual ... These practices have replaced regulation's natural space with the direct relation between the political power and the media expressions and have prevented the development of transparent communication policies.<sup>352</sup>

The state-wide DTT frequencies allocation in 2005 was a controversial example. In February, a bill on urgent measures for the establishment of DTT submitted by the PSOE government opened the possibility of providing a license for a new analog channel that would make the digital transition and raised radio license ownership limits to 50 percent. On the grounds that it was intended to favor PRISA and Mediapro, it was opposed by the commercial media outlets owned by the groups already acting in the DTT market, most of them leaning to the political right.<sup>353</sup> As previously described, the Government finally chose PRISA's Sogecable, and this prompted a threat by Telecinco and Antena 3 to take the Government to court. They did not do this in the end. The reason, according to scholars, was Prime Minister Rodríguez Zapatero's commitment to reduce advertising on TVE. What eventually happened in 2009 was its complete elimination, along with a new merger regime allowing for concentration of ownership.<sup>354</sup>

The board member of the CMT, Ángel G. Castillejo, who took part in the negotiations as adviser to the Secretary of State for Communication, absolutely denies Mr Zapatero's use of advertising as a bargaining chip to favor either PRISA or La Sexta (the latter was licensed soon afterwards). What is more, he claims that the complete elimination of advertising was agreed in the midst of the 2008 economic depression. Mr Castillejo argues, as did the Government in response to press attacks at that time, that the prime objective was to promote external pluralism.<sup>355</sup>

Between external pluralism and private allegiances, Enrique Bustamante, who was appointed to a committee for RTVE's reform in 2005, talks blatantly of "political friends."<sup>356</sup> What the executive wanted was to strike an ideological balance by countering the PSOE-friendly Sogecable (PRISA) and La Sexta (Mediapro) with the PP-leaning Net TV and Veo TV. Sogecable and Mediapro (La Sexta) would soon afterwards start a bitter war on football broadcast rights, and in parallel, PRISA's *El País* newspaper criticized Mr Zapatero's policies

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352. B. Díaz Nosty, "Repensar la comunicación. La huella es el mensaje" (Rethink communication. The footprint is the message), *Tendencias*, Fundación Telefónica, Madrid, 2006, p. 39.

353. These are Antena 3, Telecinco, Recoletos, *El Mundo*, *La Razón*, *ABC*, Punto Radio, Onda Cero, and Cadena COPE, controlled by Planeta, Mediaset, Unidad Editorial, Vocento, and the Spanish Catholic Church (Conferencia Episcopal).

354. L. Benítez and A. Labio, "The second digital war in Spain. Causes and consequences of a media reality marked by economic interests" (La segunda "guerra digital" en España. Causas y consecuencias de una realidad mediática marcada por los intereses económicos), *Actas y Memoria final del II Congreso de la Asociación Española de Investigación de la Comunicación*, at <http://www.ae-ic.org/malaga2010/upload/ok/77.pdf> (accessed 5 April 2011).

355. Interview with Ángel G. Castillejo, CMT board member, Barcelona, 13 April 2011.

356. E. Bustamante, "Quality contents in the new audiovisual structure," *Infoamérica* 3–4 (2010), pp. 143–144.

and its links with Mediapro's executives. In 2009, the new legal limits on concentration of ownership and the announced Telecinco-Cuatro merger was the evidence *El País* used in support of its argument that a further television license, the one given to the ideologically favorable La Sexta, had proved to be unsustainable.

The majority of regional and local licenses are suspected of being tainted with political clientelism. Autonomous Communities under PP rule have privileged some media groups close to the right, either operating state-wide or regionally (COPE, UNEDISA or Vocento among the former, La Verdad or Las Provincias among the latter), whereas PRISA has been clearly favored in PSOE-governed regions.<sup>357</sup> Regional and local tenders have marginalized the TS. The community media's experience has not been considered and they have been forced to compete on equal terms with commercial broadcasters, thus having to face unaffordable financial conditions. This has been continuously denounced by the ReMC.<sup>358</sup> There are exceptions, however: regions like Catalonia and Andalusia have taken into account the 30 years' experience of some of their local TS television companies.<sup>359</sup>

#### 7.2.4 Role of Self-regulatory Mechanisms

There are several instruments for self-regulation, some of which work effectively. This is the case with Autocontrol, the industry association grouping advertisers, media, and advertising agencies, which makes sure that advertisements are legal, veracious, and honest.

Another self-regulation instrument in the printed press and television is the ombudsman. Ombudsmen are available only in the largest media and their function is very positive, although often the audience is ignorant of their existence. However, the 2004 self-regulatory code on television content and children under specific protection during airtime has never been truly respected by broadcasters.<sup>360</sup> As a consequence, the Government decided to incorporate it into LGCA 2010 (Art. 7), so it could gain coercive force.

The digital transition does not seem to have provoked the emergence of new deontological codes or systems for self-regulation. It is analog co-regulation that applies in both DTT and the internet, with hardly any change. Only Catalonia's News Council (*Consell de la Informació de Catalunya*, CIC) includes in its code a recommendation to start a debate on the ethical implications of the internet and journalism in relation to phenomena like online advertising, hypertext links, e-commerce, image manipulation, copyright, privacy, impartiality, accuracy, and credibility in online news.<sup>361</sup>

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357. Bustamante, "La comunicación en las Comunidades Autónomas," pp. 235–236; A. Badillo, in A. Casero and J. Marzal, "Las políticas de comunicación ante la implantación de la TDT en España. Balance crítico y retos pendientes" (Communication policies facing DTT implementation in Spain. Critical assessment and pending challenge). In *Sphera Publica*, no. 9, Murcia, 2009, p. 105.

358. Interview with Professor Laura Bergés, representative of Community Media Network ReMC, Bellaterra (Barcelona), 20 December 2010.

359. Bustamante, "La comunicación en las Comunidades Autónomas," p. 236.

360. Ministerio de la Presidencia, Código de autorregulación sobre contenidos televisivos e infancia, at <http://www.tvinfancia.es/Textos/CodigoAutorregulacion/Codigo.htm>.

361. See Fundació Consell de la Informació de Catalunya, "Codi Deontològic" (Deontological Code), at <http://www.periodistes.org/fcic/contingut.php?codmenu=3> (accessed 10 January 2012).

## 7.3 Government Interference

### 7.3.1 The Market

As section 7.2.3 shows, state and regional intervention concerned with broadcasting license allocation in the media market is high. Political considerations, clientelism, and partisanship have dominated the majority of analog and DTT license allocations over the last decade. Economic considerations over the sustainability of the DTT model or public interest goals such as pluralism have been secondary, even if they have often been used as justification for licensing decisions.

However, the distortion of the media market through other means has been negligible in recent years. A controversial measure has been the recent tax on the gross income of FTA and pay-TV broadcasters, along with telecoms operators with audiovisual activities, in order to finance the public service corporation RTVE (see section 2.1.3). In spite of its importance, the fact that the tax is imposed on all state-wide broadcasters affects the market as a whole, and does not favor any particular operator.

The other main distorting factor is the availability of government advertising, but the level of advertisement spending by the state is insignificant compared with the total advertising market. However, at municipality level, institutional advertising and state subsidies can be used to control certain media (see section 6.2.1).

### 7.3.2 The Regulator

On the question whether Spanish regulatory bodies use their legal instruments to intimidate certain media outlets, CEMA's continued non-existence prevents this from happening. One case in Catalonia could be mentioned: the refusal by the CAC to renew a license for the already operating conservative radio network, COPE, owned by the Spanish Church (see section 7.2).

### 7.3.3 Other Forms of Interference

No other forms of interference are known.

## 7.4 Assessments

The Spanish regulatory framework can be considered appropriate for facing the challenges of digitization, mainly due to the transposition of EU Directives. In broadcasting, LGCA 2010 has gathered and organized the various earlier regulations that were scattered and complex, as well as incorporating the distinction between linear and non-linear audiovisual services. For the internet EU Directives on the information society have been adopted through various laws. However, the Spanish data protection law is too restrictive and endangers investigative journalism.

A certain competitive and neutral environment in the media market has been guaranteed thanks to the CNC. However, the recent decision by the Government to relax some conditions for the Antena 3-La Sexta merger potentially undermines this success (see section 6.1.3).

Spain is still an exception in one key area of broadcast regulation: it has no independent authority for the broadcasting sector at state level. The non-existence of CEMA invalidates the control and sanctioning system envisaged under LGCA 2010. Thus, the law loses a great deal of its power to protect public interest and pluralism. To date, it is the Ministry of Industry that controls media content quality and applies sanctions in relation to broadcasters' poor programming schedules. CEMA should fulfill this function independently. However, in its absence, the protection of program quality and internal pluralism is much more exposed to pressures from commercial broadcasters. At regional level, though, there is one authority, the CAC, that is even able to grant television and radio licenses, an example of remarkable progress towards achieving independence in regulation.

As far as DTT is concerned, Spain has thus far an adequate legal framework to succeed in the digitization process, since it has been sufficiently flexible to adapt regulations to its different phases and problems. However, the flexibility of consecutive laws, royal decrees, and technical plans has caused a certain legal insecurity among operators. In relation to this, there has been practically no transparency in license granting and renewal due to the lack of an IRA. In fact, digitization has made more frequent state intervention possible and this affects more actors than in the analog world. The intervention has been constant, especially in the case of television, and is often associated with ideological partisanship. State control consists almost exclusively in deciding who will obtain a license and under what conditions. This control is also applied by regional and local authorities.

For instance, in 2005 the Government rejected an application by the digital channels Veo TV and Net TV to broadcast in analog form, as these channels were not well regarded by the social democrats then in office. However, soon afterwards the Government authorized both analog and digital broadcasts by a new channel, La Sexta.

When it became clear that an FTA model had been chosen for digital television after the failure of the subscription DTT platform Quiero TV, the socialist government opened up subscription DTT in 2009. The decision was enforced through a Decree-Law, a resort that the Constitution permits in extraordinary and urgent circumstances.<sup>362</sup> As a result, a few weeks later, the Imagina group, ideologically close to the PSOE government, launched Gol TV, a premium channel specializing in football coverage. Previously, the group had gradually acquired a majority of the rights to broadcast the Spanish football premier league.

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362. Royal Decree-Law 11/2009 through which state-wide pay digital terrestrial television services on conditional access are regulated, *BOE* no. 197, 15 August 2009.

Another example was the change in 2005 of the license contract originally signed between the Government and PRISA's television division, Sogecable, in 1989. The change finally enabled Sogecable to broadcast FTA in 2005. A premium channel, Canal+, disappeared in favor of a free commercial offering in the same frequency. The decision was made by the Council of Ministers in July 2005, using the argument that it favored pluralism, but in reality it privileged PRISA's commercial interests.

Therefore, the DTT regulatory framework has enabled technological transition, but it has impeded the possibility of giving new opportunities to new operators, which would have advanced pluralism. Moreover, regulation has been used to favor those broadcasters who are already operating, especially those that are more ideologically connected to the Government, a situation peculiar to the polarized pluralist media systems of southern Europe.<sup>363</sup> The frequent meetings of members of the Government with the main broadcasters, resulting in agreements and action plans, have prevented civil society from participating in the development of DTT public policy. There has been no public consultation in the transition process; participation and public debate have been minimal, a situation already familiar from the analog era.

Broadly speaking, the level and pace of state interference in the media market have not increased with digitization, but there are now more opportunities for it to occur. Situations distorting the market happened in the analog era, as they now happen in the digital age. Institutional advertising makes no distinction between transmission technologies, nor do media subsidies. There are, however, more interventionist behaviors at the lower levels of political power, and digitization, with the multiplication of media actors, has also increased the possibility of state intervention or influence. Local or regional authorities have at their disposal more instruments to have an impact on smaller media: they can allocate subsidies or invest in institutional advertising at their discretion. Therefore, these investments are more important for this type of media than those allocated by the central government to larger media.

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363. I. Fernández and M.J. Díaz-González, "Digital terrestrial television roll-out policies in Spain and the changing television scene in the context of analogue switch-off," *International Journal of Digital Television* 1(3) (September 2010), pp. 289–307.

# 8. Conclusions

## 8.1 Media Today

Since 2005, the key trends in the Spanish media market could be summed up as follows:

- The technological deployment of DTT production, broadcasting, and reception;
- The lack of economic rationality in DTT licensing due to close linkages between the political and the television market powers;
- Limited gains in broadcasting quality following DTT switch-over, according to public perception;
- The growth of the internet as an important news media platform;
- The increasing ideological polarization in both new DTT channels and online news outlets;
- The use of social media as political mobilization tools;
- The deep impact of the economic crisis, in terms of loss of funding, employment, and content quality and diversity;
- The resurgence of a state intervention model for the management of RTVE;
- An incipient conceptual change towards commercialism in the regional public service broadcasters, including privatization in some cases.

Apparently, the deployment of digital media—both DTT and online—has increased media choice: there are more media outlets, and, as such, higher external pluralism. On closer examination of the structure of ownership and content, this positive relation between outlet number and choice and pluralism is less straightforward. Nationwide DTT channels are mostly owned by the already consolidated analog operators. The situation varies from genre to genre in range of content. News, the preferred focus of this report, is being pushed into the state-owned, public service broadcast sector, and bulletins are privileged over more elaborate news genres, such as debates, documentaries and in-depth interviews. Some fiction and entertainment programs are repeated across brands belonging to the same group, or are new broadcasts of formerly successful formats the broadcasters still hold the rights for. Many media outlets online do not survive under the pressure of competition and resource shortages, or do so under non-professional conditions. The few news outlets that succeed in gaining resonance and influence lose their independence when they become larger.



The potential enhancement of pluralism has been hindered by at least two factors. The more recent one is the impact of the financial crisis since 2008. This has resulted in an acute advertising crisis, especially in the printed press, where revenues have fallen by nearly half since 2007 and there has been a cascade of closures. This has also fostered a crisis in journalistic employment. According to FAPE, more than 7,000 journalists lost their jobs from November 2008 to October 2012. For those who are still employed, the financial and productive crisis—in combination with digital technological innovations—have overloaded journalists' production routines.

Combined, these pressures may make journalists more prone to self-censorship and more vulnerable to editors' control. Consequently, quality is threatened. In any case, the crisis shows that the assessment of potential gains as a result of digitization cannot be isolated from media market conditions.

A related factor hindering media choice applies more specifically to DTT and is entangled with the financial crisis. The excessive number of licenses allocated in relation to the size and limits of the Spanish market has made the DTT deployment model unviable at state, regional, and local level. As a consequence, the stronger broadcasters are merging around the two largest groups, Antena 3 and Telecinco. At the regional and local levels, it is not unusual to see media outlets closing and media groups giving up their licenses.

Close ties between incumbent broadcasters and political elites have survived digitization and precipitated regulatory changes that favor the interests of major market players over those of the public. As the DTT market consolidates, the lobbying power of broadcasters looks set to increase. Political clientelism and ideological affinity between authorities and broadcasters are particularly acute at the regional and local levels.

As a coda to this situation, the non-existence of an independent regulatory authority (IRA)—included in LGCA 2010 but not yet established, and not envisaged as of October 2012—leaves the public accountability of national operators directly in the hands of the Government.

External pluralism is also counteracted by ideological polarization in the new digital media, both in DTT and internet platforms. It is reinforced by the excessive predominance of opinion and interpretation over facts and data.

It would be interesting to know whether or not, in view of the new consumption options made possible by digital television, consumers now use several media outlets with different ideological profiles. If the trend of ideological polarization is indeed reflected by the audience, it could result in the gradual disappearance of the public sphere where different views and opinions intersect.

In any case, this report has also noted that DTT products and services are not highly regarded by consumers in terms of improved quality.

In the public service media, the RTVE reform starting in 2004 seemed to fulfill a democratic transition that was still pending since the end of Franco's dictatorship in the late 1970s. It put an end to governmental control

over board appointments, developed independent news programs that have been awarded professional prizes worldwide, and diversified and expanded its services online. This process was not paralleled by other regional broadcasters in the Autonomous Communities, except for some notable cases such as the CCMA.

But in very little time, this model has been put at risk, due to several policy decisions affecting corporate and financial management. The abrupt removal of advertising in 2010, the European Commission's objection to the tax on telecoms' revenues, and the substantial budget cuts justified by the public debt crisis seriously constrain RTVE. Furthermore, the urgent amendments to the law in 2012, changing the board's parliamentary appointment procedures, threaten to halt or reverse advances toward independence. In connection with ideological polarization and the growing marginalization of news programs, these decisions on RTVE can seriously damage the provision and quality of public service news.

At the regional level, the public service broadcaster model based on state ownership is under sustained attack. The economic crisis is being used as an argument by the Autonomous Community governments to dismiss large numbers of staff and outsource more production. In many cases, regional public service broadcasters have been criticised by professionals, citizens, and the largest commercial broadcasters for acting as the mouthpiece of local authorities and presiding over spiralling costs. The trend is towards more outsourcing and, finally, total privatization—something that is now a legal possibility following legislative amendments in April 2012.

Finally, digitization has enabled the expansion outside traditional mainstream media of social media and social movements that have had a certain influence on Spanish political and social life, such as the 15-M movement (launched with massive protests around the country on 15 May 2011, aimed at democratic regeneration).

## **8.2 Media Tomorrow**

The digitization process in the years to come will be marked by spectrum policy. The reassignment of frequencies in order to create a digital dividend, and the position that will be awarded to television broadcasters in that process, will be decisive. The reallocation of DTT licenses after withdrawals, mergers, and takeovers will also be a key to making this sector financially viable and reshape it in response to the economic crisis.

It is highly probable that mobile phones will grow as news platforms and key instruments in the access to social media. Moreover, software and applications for mobile phones and television sets will be entry points to news and audiovisual content consumption. In this sense, the pre-eminent position of search engines will be threatened. The extension and importance of social media will be fundamental in news distribution and will be able to mobilize people in the event of social conflict.

The press will continue to undergo a twofold crisis precipitated by the enduring economic downturn and structural issues that have made it difficult for newspapers to offset losses in print revenue with new sources

in the digital domain. It is likely that more titles will close or migrate to the internet in the near future. The online press business model will combine a partly free access and a pay model, more affordable than the print issue. Labor precariousness and journalist unemployment will be dictated by the continuation of the economic crisis, whereas digitization will supply the few new jobs that will be created.

Broadly speaking, it is likely that the largest media companies will continue to consolidate, while digitization goes on providing high diversity among the smallest, less influential players in the media chain, thanks to the internet. The intermediate media classes—those outlets whose structure is becoming too expensive for their modest audiences to support them—will, however, be threatened by digitization. It is easy to see that local and regional television will have enormous difficulties surviving in a digital environment, with their costs escalating while their revenues plummet due to the economic crisis.

Finally, the future of public service media as a state prerogative might be starting to disappear in Spain, at least at the regional level. The unfolding of reforms of regional public service broadcasters might result in complete privatization. In that case, the advantages of digitization would mainly benefit commercial actors. Social and political reactions to this movement are still uncertain, but the possibility of building another consensus on public service values in a highly commercialized environment is not to be dismissed.

# 9. Recommendations

## 9.1 Policy

### 9.1.1 Media Policy

#### 9.1.1.1 Public Participation in Media Policy Making

##### *Issue*

Media policy in Spain is developed through multiple laws and regulations in a process which substantially excludes civil society input. Moreover, media policy is driven by economic and political interests and groups, which try to isolate debate from public view and engagement.

##### *Recommendation*

The government should promote broader and deeper public consultations on broadcasting, as in other policy matters and areas. A new and regulation on public consultation could be helpful in sensitive areas such as media regulation.

In order to maximize civil society participation, independent media viewers and listeners' organizations (such as AUC and iCMedia) should try to reach a consensus on basic concerns, principles, and courses of action. Alternatively, they could work together on building an organization or platform that aggregates consumers' requests as a single voice, so that their demands and suggestions are articulated more efficiently. Thirdly, media reform activists and civil society groups should invite politicians to a public debate about media. This debate shall meet at a place, on a date and with an agenda.

## 9.2 Media Law and Regulation

### 9.2.1 Media Ownership

#### 9.2.1.1 Transparency of Media Ownership and Control

##### *Issue*

The growing influence of private financial groups over media ownership has made management and control structures more complicated to understand for non-specialists. Furthermore, the current normative discipline on transparency of media ownership does not require disclosure of all the basic information to identify the ultimate owners. In particular, there are no mandatory provisions for media operators to disclose the identity of so-called “beneficial” owners, i.e. those whose shares are held by others on their behalf, e.g. through brokerage. Moreover, there are no legal obligations on the media to disclose their sources of revenue.

##### *Recommendations*

Civil society organizations and citizens’ movements should campaign to raise public awareness of the lack of ownership transparency and of the need for access to information on real ownership and control of the media. This campaign should also call for the introduction of more stringent requirements for all media outlets to disclose the identity of their beneficial owners as well as the sources of their revenue. This information should be updated regularly and made available online in a comprehensible way for the general public.

### 9.2.2 Regulation

#### 9.2.2.1 Independence of Board Members of the Broadcasting Regulator

##### *Issue*

Spain was, until 2013, the only European country without a nationwide independent regulatory authority for the audiovisual sector. Broadcasting issues were monitored by a low-level department in the Ministry of Industry. An independent regulatory authority, the National Commission for Markets and Competition (Comisión Nacional de los Mercados y la Competencia, CNMC) was created in June 2013, with a remit that includes broadcasting. This was justified by the government as a cost-cutting measure. In theory, the CNMC should be independent; however, the government will appoint all ten of its members. Although Parliament can veto these appointments, there are grave suspicions about the degree of real independence, which the CNMC is likely to enjoy.

##### *Recommendation*

In the short term, Parliament should amend the law that established the CNMC to introduce an independent appointment system, which would ensure the regulator’s independence from government. As a practical measure, the Parliamentary hearings for CNMC board members should be more effective and allow for thorough examination and cross-examination.

An Advisory Board (Comité Consultivo) should be created to advise the CNMC’s broadcast division. This board should be created in line with the provisions in the General Broadcasting Law of 2010, and should

consist of representatives of civil society organizations, broadcasters, advertisers, trade unions and media consumer organizations.

In the longer term, audiovisual matters should be excluded from the CNMC's competence; the government should establish a dedicated and independent audiovisual regulator.

### 9.2.2.2 Transparency of Broadcast Licensing

#### *Issue*

Economic and political pressures have had a negative impact on transparency and fairness in the allocation of television and radio licensing, especially at the regional and local levels.

#### *Recommendation*

The national and regional governments and authorities should publish the reasons and criteria used in each licensing decision. Every decision on broadcasting licensing should be justified. Licensees' documentation should be published, with the exception of sensitive commercial information.

### 9.2.2.3 Transparency of Institutional Advertising

#### *Issue*

Spending on institutional advertising in the media—at the state, regional, and local levels—is not documented in a transparent way, and suspicions are growing that funds for institutional advertising are used to favor media outlets that are more supportive of government policy, regardless of their dissemination, and to discriminate against media outlets that are more critical, in order to undermine their survival and independence.

At state level, the Ministry of the Presidency publishes an annual Report on Institutional Advertising which provides only aggregated figures of state spending on institutional advertising, detailed by sector and media type. The Report does not detail the actual distribution of funds among media. A draft Transparency Law—currently pending before the Senate for final approval—includes an obligation for the government to disclose its contracts for the provision of institutional advertising. However, the majority of contracts are arranged via advertising agencies. As private entities, these agencies are not obliged to disclose the recipients of institutional campaigning and related funds.

Furthermore, at the regional and local levels, each Autonomous Community and municipality has an institutional advertising budget and the authority to dispose of this budget as it chooses. This creates discrepancies in the ways that regions disclose the allocation of funds for institutional advertising; in some cases, the data is not available at all or not reported regularly.

#### *Recommendations*

In the short term, the current draft Transparency Law should be amended to include full disclosure of the public funds allocated by state entities to each outlet. The data could be made available on request or proactively published in the annual Report on Institutional Advertising.

At the same time, civil society organisations and academics should initiate monitoring and research to gather data at national, regional, and local levels on the distribution of institutional advertising among media over a given period. The findings should be made available in publications that would be presented at dedicated events with the participation of the relevant stakeholders. The ensuing debate should produce concrete recommendations on implementing transparent disclosure of allocation of public funding among the media.

#### 9.2.2.4 Implementation of Self-regulatory Codes on Media and Children

##### *Issue*

The Law on General Audiovisual Content (LGCA 2010, Article 7) incorporates the 2004 self-regulatory code on television content and children under specific protection during airtime, in order to give it coercive force. In the absence of a national independent regulatory authority for the audiovisual sector, the supervision of the application of this code is carried out by a department of the Ministry of Industry (SETSI), which has the power to sanction broadcasters that do not respect its provisions. However, the proceedings leading to sanctions are not adequately transparent: the Ministry of Industry occasionally publishes the sums of the sanctions issued, but without identifying the broadcasters concerned, thus limiting the deterrent effect of ‘naming and shaming’.

##### *Recommendation*

In line with Article 51.2 of the Constitution, which establishes that “the public powers will promote information for users and consumers as well as their education”, the infringements of the code on television content and children should be considered as information of public interest. As such, infringements should be disclosed and reported regularly and in full by the competent authority.

Moreover, the Ministry of Industry should publish a regular report disclosing the number of complaints received, the allegations made by and against the parties, the motivations of the final decision assessing the existence of a violation, the amount of the sanction issued, and the identity of the broadcasters found in breach and sanctioned.

### 9.3 Public Service in the Media

#### 9.3.1 New Reform of Public Service Media

##### *Issue*

Between 2006 and 2009, reform of the Spanish Radio and Television Corporation (Corporación de Radio y Televisión Española, RTVE) achieved a more independent and legitimate public service broadcaster. The new mode of regulation, new institutional framework, and new funding system have ended the long history of RTVE’s substantial dependence on government.

However, the economic crisis and political infighting have undermined RTVE’s independence since 2012, by reducing its state funding and increasing the level of government control. Although Parliament has statutory

oversight of RTVE's funding and expenditure, RTVE's annual statements are irregular and unpublished. Parliamentary debates on this topic tend to be ill-informed and fruitless.

### *Recommendations*

- Regarding the political independence of RTVE, non-governmental organizations (NGOs) and political parties should work together to restore the 2006 consensus that the appointment of RTVE board members should require the support of two-thirds of Parliament.
- NGOs and independent associations of viewers and listeners should demand that RTVE's funding suffices to guarantee its institutional and editorial independence. In return, RTVE should offer total transparency in its accountability and content contracts. Spanish public service broadcasters should be required by Parliament to publish their sources, level of income, and main areas of spending. This measure is particularly important for regional public broadcasters.
- Independent organizations of viewers and listeners should join journalists from RTVE, their associations, and academics in setting up a public information campaign about the future of public service media in Spain by publicizing the impact of RTVE's current funding arrangement on its independence, focusing on cuts in state funding and the privatization of regional public service broadcasters.

This campaign should expose and counter the lack of political will to address public service media in terms other than those of “spending cuts” and “fiscal austerity.” At the same time, civil society organizations should call for a clear separation of the functions of management, accountability, and newsroom. Greater professionalism must be demanded of RTVE management. The appointment process should be open, more transparent, and based on merit.

## **9.4 Journalism**

### **9.4.1 Promotion of Good-quality Journalism**

#### *Issue*

An expensive enterprise by its nature, good-quality journalism has been affected by the cuts in state subsidies for public service broadcasting and by the general economic crisis.

#### *Recommendations*

- Civil society organizations and professional associations should design and launch a national award for good-quality journalism. For example, a new category related with investigative journalism could be included in the Príncipe de Asturias awards.
- NGOs, as well as journalists' unions and associations, should promote the creation of a nationwide association of good-quality journalism, which might operate as an association of a special Spanish category called *de utilidad pública* (i.e. of public utility or value). “Utilidad pública” NGOs enjoy significant fiscal benefits.



- Tax deductions should be enabled for firms and NGOs over donations for good-quality journalism projects. (The draft of the cultural sponsorship act offers an opportunity to adopt this measure.)

## 9.4.2 Improving the Working Conditions of Journalists

### *Issue*

Spain's economic crisis has had a huge impact on media revenue. As advertising investment fell sharply and far, media managers cut human resources, and a number of media outlets closed. As a consequence many journalists lost their jobs, while others experienced worsening pay and conditions.

### *Recommendations*

State institutions, journalists' associations and unions, and universities should establish a strategy for concerted action to address this problem, including:

- the consistent implementation of official labor inspections by the Ministry of Employment, as already provided in law
- the more rigorous regulation by regional governments of intake to university departments of communications and journalism, in order to avoid saturating the labor market
- the design of higher quality and more specialized journalism education courses
- the establishment and consistent implementation of minimum freelance pay-scales
- campaigns to promote union membership.

## 9.5 Digital Media Literacy

### 9.5.1 Ideological Polarization and Media Fragmentation

#### *Issue*

The growth of traditional and internet media have been very important in the last decade. Some new digital outlets, however, including television stations and portals, produce content that does not comply with professional norms and standards of journalism. In these outlets, information is substituted by opinion and arguments by stereotypes.

#### *Recommendation*

The Ministry of Education should introduce digital media as a topic in secondary school curricula, as a cross-cutting theme or as part of language and literature teaching.

# List of Abbreviations, Figures, Tables, and Companies

## Acronyms and Abbreviations

AEDE	Association of Spanish Daily Newspapers' Publishers ( <i>Asociación de Editores de Diarios Españoles</i> )
AEPD	Spanish Agency for Data Protection ( <i>Agencia Española de Protección de Datos</i> )
AIMC	Association for Media Research ( <i>Asociación para la Investigación de Medios de Comunicación</i> )
AMETIC	Multisectorial Trade Association for Electronics, Information and Communications Technologies, Telecommunications and Digital Content Industries ( <i>Asociación de Empresas de Electrónica, Tecnologías de la Información, Telecomunicaciones y Contenidos Digitales</i> )
ANV	Basque Nationalist Action ( <i>Acción Nacionalista Vasca</i> )
AUC	Users' Communication Association ( <i>Asociación de Usuarios de la Comunicación</i> )
AVSMD	Audiovisual Media Services Directive
BOE	Official State Bulletin ( <i>Boletín Oficial del Estado</i> )
CAA	Andalusian Audiovisual Council ( <i>Consejo Audiovisual de Andalucía</i> )
CAC	Catalan Audiovisual Council ( <i>Consell de l'Audiovisual de Catalunya</i> )
CAS	conditional access system
CCMA	Catalan Broadcasting Corporation ( <i>Corporació Catalana de Mitjans Audiovisuals</i> )
CEMA	State Council for the Audiovisual Media ( <i>Consejo Estatal de Medios Audiovisuales</i> )
CIC	Catalonia News Council ( <i>Consell de la Informació de Catalunya</i> )
CIS	Center for Sociological Investigations ( <i>Centro de Investigaciones Sociológicas</i> )
CMT	Telecommunications Market Commission ( <i>Comisión del Mercado de las Telecomunicaciones</i> )
CNC	National Competition Commission ( <i>Comisión Nacional de la Competencia</i> )
CNN	Cable News Network
CNN+	CNN and PRISA joint venture for Spanish all-news media channel (1999–2010)
COPE	People's Radiowaves of Spain Network ( <i>Cadena de Ondas Populares Españolas</i> )
DAB	digital audio broadcasting
DRM	Digital Radio Mondiale
DTT	digital terrestrial television
DVB	digital video broadcasting
EGM	General Media Survey ( <i>Estudio General de Medios</i> )

EPA	Labour Force Survey ( <i>Encuesta de Población Activa</i> )
EPG	electronic programming guide
ERE	statutory lay-off proceedings ( <i>expediente de regulación de empleo</i> )
ESCAAC	Espai Foundation for Catalan Culture and Communication ( <i>Fundació privada Espai Català de Cultura i Comunicació</i> )
EU	European Union
FAPE	Spanish Federation of Journalist Associations ( <i>Federación de Asociaciones de Periodistas de España</i> )
FENITEL	National Federation of Telecommunications Installers ( <i>Federación Nacional de Instaladores de Telecomunicaciones</i> )
FeSP	Spanish Federation of Journalists' Unions ( <i>Federación Española de Sindicatos de Periodistas</i> )
FORTA	Regional Radio and Television Organizations' Federation ( <i>Federación de Organismos de Radio Televisión Autonómicos</i> )
FTA	free-to-air
FUNDACC	Fundación de la Comunicación y la Cultura (
GDP	gross domestic product
HD	high definition
ICMedia	Federation of Associations of Media Consumers and Users ( <i>Federación de Asociaciones de Consumidores y Usuarios de los Medios</i> )
ICT	Information and Communication Technologies
INE	National Statistics Office ( <i>Instituto Nacional de Estadística</i> )
IPTV	internet protocol television
IRA	independent regulatory authority
IU	United Left ( <i>Izquierda Unida</i> )
LGCA	General Law on Audiovisual Communication
LTE	long-term evolution (
MHP	multi-home platform
MP	Member of Parliament ( <i>Parlamentario</i> )
NGO	non-governmental organization
OJD	Circulation Audit Bureau ( <i>Oficina de Justificación de la Difusión</i> )
OJDi	Interactive Circulation Audit Bureau ( <i>Oficina de Justificación de la Difusión interactiva</i> )
PP	People's Party ( <i>Partido Popular</i> )
PPV	pay-per-view
PSC	Socialists' Party of Catalonia ( <i>Partit dels Socialistes de Catalunya</i> )
PSOE	Spanish Socialist Workers' Party ( <i>Partido Socialista Obrero Español</i> )
ReMC	Community Media State Network ( <i>Red Estatal de Medios Comunitarios</i> )
RNE	Spanish National Radio ( <i>Radio Nacional de España</i> )
RTVE	Spanish Radio and Television ( <i>Radio Televisión Española</i> )
RTVV	Radio and Television of Valencia ( <i>Radiotelevisió Valenciana</i> )
SD	standard definition
SER	Spanish Broadcasting Company ( <i>Sociedad Española de Radiodifusión</i> )

SETSI	Department of Telecommunications and Information Society ( <i>Secretaría de Estado de Telecomunicaciones y para la Sociedad de la Información</i> )
TBS	Telefónica Broadcast Services
TDT	<i>television digital terrestre</i> (digital terrestrial television)
TICs	Information and Communications Technologies ( <i>Tecnologías de la Información y de la Comunicación</i> )
TS	third sector ( <i>tercer sector</i> )
UGT	General Workers Union ( <i>Unión General de Trabajadores</i> )
ULEPICC	Latin Union of Political Economy of Information, Communication, and Culture ( <i>Unión Latina de Economía Política de la Información, la Comunicación y la Cultura</i> )
UMTS	Universal Mobile Telecommunications System
UPV/EHV	Basque Country University ( <i>Universidad del País Vasco</i> )
UTECA	Association of Commercial Television Broadcasters ( <i>Unión de Televisiones Comerciales Asociadas</i> )

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## Companies

ABC	La Vanguardia
AbertisAntena 3	Marca
AS	Mediapro
Cadena SER	Mediaset
Canal Sur	Net TV
Catalunya Ràdio	Onda Cero
CCMA	Ono
CNN+	Overon
COPE	Paramount
Cuatro	Planeta DeAgostini
Discovery	PRISA (Promotora de Informaciones SA)
El Mundo	Punto Radio
El País	RAC1
Euskaltel	RCS (Rizzoli-Corriere della Sera) media group
GAMP (Grupo Audiovisual de Medio de Producción)	RNE
Grupo Godó	RTVE
Grupo Zeta	Schibsted
Globomedia	SES Astra Ibérica
Intereconomía	Sogecable
La Sexta	Telecable
	Telefónica

TV3  
TVG  
TVV  
UFA  
UNEDISA

Unidad Editorial  
Veo TV  
Viacom  
Vocento  
Walt Disney

## Mapping Digital Media: Country Reports (published in English)

1. Romania
2. Thailand
3. Mexico
4. Morocco
5. United Kingdom
6. Sweden
7. Russia
8. Lithuania
9. Italy
10. Germany
11. United States
12. Latvia
13. Serbia
14. Netherlands
15. Albania
16. Hungary
17. Moldova
18. Japan
19. Argentina
20. South Africa
21. Turkey
22. Lebanon
23. Macedonia
24. Bosnia and Herzegovina
25. Poland
26. Montenegro
27. Georgia
28. Nigeria
29. Colombia
30. Croatia
31. Slovenia
32. China
33. Peru
34. Chile

**Mapping Digital Media** is a project of the **Open Society Media Program** and the **Open Society Information Program**.

## Open Society Media Program

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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