

Television across Europe:
regulation, policy and independence

Albania

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List of acronyms

ALL:	Albanian <i>lek</i> (the country's currency)
ERT:	Regulatory Entity for Telecommunications, <i>Enti Rregullator i Telekomunikacioneve</i> .
KKRT:	National Council of Radio and Television, <i>Keshilli Kombetar i Radio Televizionit</i>
OSCE:	Organization for Security and Cooperation in Europe
RET:	Regulatory Entity for Telecommunications
RT:	Radio Tirana
RTSH:	Radio-Television of Albania, <i>Radio Televizioni Shqiptar</i>
TVSH:	Albanian Television, <i>Televizioni Shqiptar</i>

1. EXECUTIVE SUMMARY

The electronic media sector in Albania is now substantial, with many radio and television stations covering most of the country. These outlets have, for the most part, moved beyond the stage of struggling against Government attempts to control information. Even when it is politically motivated, interference with the media is exerted through economic means, such as the allocation of State advertising and Government support or obstruction of the proprietors' other business activities. However, most of the present conflicts between the Government and the media are caused by economic, rather than political, interests. Although economic conditions in Albania do not allow many of these outlets to become self-sustainable, very few of them have shut down.

While, in overall terms, the country's media legislation is adequate, revisions are still needed to accommodate new or imminent developments in the media sector. In addition, the law has not yet ensured the transparency of media ownership and financing. Moreover, it should provide better guarantees to Albanian and foreign broadcasters regarding the functioning of the media sector according to free market rules.

Apart from the letter of the law, its proper implementation has been a constant problem in the past. Improved implementation will be crucial to the healthy development of Albanian media. The regulator has not experienced a smooth progress in fulfilling its mission: its decisions have often been contested and have sometimes provoked protests. Effective self-regulation is virtually unknown. Given the lack of employment contracts for journalists and the extremely unstable labour market, self-censorship rather than self-regulation is the norm among journalists.

Overall, due both to the positive attitude of the media outlets themselves and also to the supervision of the main broadcasting regulator, the National Council of Radio Television (KKRT), most broadcasters now operate in strict compliance with broadcasting laws. However, the advent of digital broadcasting provoked some outlets to revert to bad habits until the KKRT imposed some exemplary fines.

Proper implementation of the law is especially desirable for strengthening the role of the public service broadcaster, Radio-Television of Albania (RTSH), and enabling it to fulfill its mission. The public broadcaster's role has faded steadily with the emergence of private electronic media, which are continuously investing and attempting professional improvement. While private media grow, the public broadcaster has stagnated, finding it difficult to reform the huge structure that was inherited from the communist era. The legacy of full State control has been difficult to cast off. Even though the legal framework for the transformation of State television into a public broadcaster has been in force for six years now, accusations of pro-Government bias continue. Over the last years, none of the governing or advisory bodies at RTSH has attempted to draft the required strategy to transform the institution into an efficient public broadcaster. In addition, no solution has been found to RTSH's funding

problems: its reliance on short-term State funding renders it highly vulnerable to political pressure and is ultimately incompatible with a public service mission.

More positively, the public broadcaster has been a pioneer in some new media technologies, though it remains to be seen whether these will succeed in Albanian conditions. These technologies are latecomers to the media scene and it is too early to say very much about their impact. As a matter of fact, the lack of reliable research, monitoring, surveys and other kinds of data make it difficult to reach general conclusions about developments in any area of Albanian media.

2. CONTEXT

The present picture of the television market in Albania, and its evolution in recent years, is remarkable. Until 1995, for most Albanians, electronic media meant the State radio and television network. Today, according to official data, Albania has 66 television stations and 45 radio stations.¹ The lack of systematic and scientific audience research makes it difficult to assess the market shares of broadcasters operating in Albania. It also remains difficult to assess their coverage of territory. It is, however, an established fact that Radio-Television of Albania (RTSH), the public broadcaster, covers 80 per cent of the country's territory.

2.1 Background

The commercial television sector has experienced a late, but speedy, growth, characterized by lawlessness and chaos, in the absence of regulation. Even after regulation was established, the regulatory body has not always been able to fully establish its authority over the electronic media, though it has achieved some significant successes. Although the television market, like every other media market in the country, is almost deformed by a glut of television stations that the small market can hardly sustain, only a few stations have shut down.

The importance of commercial television has grown overall, thanks, in part, to the poor performance of the public service broadcaster, which has failed to reform itself as a truly public broadcaster. Another reason for the high profile of commercial television, especially in the capital, Tirana, is that some commercial stations have benefited from huge investments, particularly in equipment. These investments have made the stations popular and important in the eyes of the public. However, even those more popular outlets have not yet managed to become self-sustaining, and advertising revenue accounts for just half of their total annual income, a situation that indicates Albania's television market is still far from being viable and independent.

¹ KKRT, list of licensees, available (in Albanian) on the KKRT website at http://www.kkrt.gov.al/licenca_frame.htm (accessed 22 March 2005).

2.2 Structure of the television sector

The State radio and television network, Radio-Television of Albania (RTSH), was Albania's only broadcaster until 1995, when the first private television station, TV Shijak, started operating from a residential address. Private broadcasters multiplied over the next few years and today, according to the National Council of Radio and Television (KKRT), Albania has 66 television stations and 45 radio stations. These numbers were even higher before late 2003, when the KKRT revoked some broadcast licences for failing to pay their fees or to submit the necessary documentation. Most of the electronic media outlets are centred around western Albania, especially in the capital, which is home to 72 per cent of all radio stations and 75 per cent of all television stations.² However, the quality of broadcasting lags far behind the speed of its growth.

There are currently two private national television stations: TV Klan, which was launched in 1998 and covers 43 per cent of Albania's territory, and TV Arberia, which was launched in 1996 and covers 30 per cent of the territory. The slow spread of the coverage of these national television stations might soon present problems, in that the stations are lagging behind their licence conditions, especially TV Arberia, which covers 30 per cent of the territory instead of the required 47 per cent.³ Meanwhile, smaller stations are reaching farther than they should: several stations have chosen to install booster transmitters, even though their licence does not authorize them to do so. In this way, some television stations with a regional licence are catching up with the signal coverage of the private national stations, or even outdoing them.⁴

When it comes to extending their territorial coverage, the two private national radio stations do a better job than the private national television stations. Top Albania Radio, dating from 1998, covers 87 per cent of the country's territory, while Radio +2, also founded in 1998, covers 72 per cent of the territory.⁵

The State broadcaster, RTSH, covers most of the country: Radio Tirana (RT), broadcasts two national channels which both reach 80.5 per cent of the country's territory, while Albanian Television (TVSH) broadcasts one national channel which covers 73 per cent and is, in an important sense, the only national television station.⁶ There is no data on the coverage of population, so the difference in footprint between

² KKRT, *2003 Raport Vjetor ne Kuvendin e Shqiperise, (2003 Annual Report to Parliament)*, available at http://www.kkrt.gov.al/informacion/raport_2003.htm (accessed 13 May 2005) (hereafter, KKRT, *2003 Annual Report*).

³ KKRT, *2004 Raport Vjetor ne Kuvendin e Shqiperise, (2004 Annual Report to Parliament)*, p. 13, (hereafter, KKRT, *2004 Annual Report*).

⁴ KKRT, *2004 Annual Report*.

⁵ KKRT, *2003 Annual Report*.

⁶ KKRT, *2003 Annual Report*.

the public and commercial broadcasters may be less important than it appears.⁷ Along with its Tirana-based RT and TVSH, RTSH also has regional radio studios in four cities and television studios in three cities outside Tirana. These branches operate with limited budgets and broadcasting time.

In the last few years, the market has witnessed the rise of news channels, such as News 24 and TV Alsat. This new genre of television has been imitated by other local stations, partly due to the financial inability of many stations to buy programmes in conformity with the broadcasting rights requirements of anti-piracy provisions, which came into force in October 2003.⁸

2.3 Market shares of the main players

There is no way of knowing the real market share of each television station, as audience research is sporadic and limited, and its findings are contested by the television community. Attempts to monitor television audiences were made between 2001 and 2003. These surveys did not include the whole country or all television stations and were limited in time, hence are of limited utility. However, they are the only available source of audience figures. Table 1 shows the television channels with highest audience shares, according to the 2002 survey.

⁷ Albanian Institute of Statistics (INSTAT), *Popullsia e Shqiperise 2001, (Population of Albania 2001)*, Tirana 2002, p. 32, (hereafter, INSTAT, *Population of Albania 2001*). According to the most recent (2001) census, Albania had a total population just over 3,087,000. Some 58 per cent of the population was rural, and 42 per cent urban. With 523,000 inhabitants, the capital city of Tirana accounted for 11.1 per cent of the country's population. A more recent (July 2004) estimate of the total population, cited by the US Census Bureau, is 3,544,808. See: USAID, *USAID Country Health Statistical Report*, available on the USAID website at http://www.usaid.gov/our_work/global_health/home/Countries/eande/albania.pdf (accessed 29 March 2005).

⁸ Law no. 9124 of 29 July 2003, on some amendments to Law No. 8410 of 30 September 1998 on the Public and Private Radio and Television in the Republic of Albania (hereafter, Law no. 9124/2003).

Table 1. Audience share of the top ten television channels (2002)

	Channel	Audience share (per cent)
1	Klan	21.5
2	TVSH	17.1
3	Top Channel	11.9
4	Telenorba Shqiptare	11.3
5	TVA	8.2
6	Vizion +	3.4
7	Telesport	3.2
8	TV Shijak	2.7
9	TV Teuta	2.2
10	Gjeli Vizion	1.3
Total		82.8

Source: Institute of Surveys and Opinions⁹

Judging by all three years of this research, the public broadcaster performs poorly in the capital, Tirana, where it rarely reaches 10 per cent of the audience during the day, and hardly more than this during the evening news bulletin. It appears to be more popular in provincial centres, far from Tirana. As TVSH still has a bigger footprint than the other national television stations, its second place in Table 1 probably reflects the fact that its signal reaches many more people, rather than the appeal of its programming.

In the radio industry, there are no audience surveys at all – a lack that reflects the importance of television compared to radio. While the inaccurate or missing audience measurement makes it difficult to assess the most important players in terms of their market share, a general opinion can be inferred by looking at the programming structure and projects of specific television stations. Considered in this way, the most important television stations, apart from TVSH, which has the largest territorial coverage, include TV Klan and TV Arberia (the private national stations), Top Channel, Vizion +, TV Koha – and perhaps TV Shijak and the news channels News 24 and TV Alsat.

⁹ Institute of Surveys and Opinions (Instituti i Sondazheve dhe Opinioneve), *Media 2002*, Tirana, 2002, p. 54, (hereafter, Institute of Surveys and Opinions, *Media 2002*). See section 5.4 for more information about these surveys.

3. GENERAL BROADCASTING REGULATION AND STRUCTURE

The legal framework on broadcasting activity in Albania is laid down by the Law on Public and Private Radio and Television in the Republic of Albania (hereafter, the Law on Radio and Television).¹⁰ The law, which has since been amended four times since its adoption in 1998, purports to regulate in detail the activity of the electronic media, including the public broadcaster. Unfortunately, it has not achieved this. The recent launch of digital broadcasting confirmed that the law has failed to regulate the sector comprehensively. This is particularly problematic in a country where the courts follow the law literally, refusing to use analogical or interpretative tools.¹¹ Moreover, the proper implementation of the law is impeded by various economic and political factors, as well as by the lack of a tradition of independent media and independent and strong institutions.

3.1 Regulatory authorities for the television sector

The Law on Radio and Television established the National Council of Radio and Television (*Keshilli Kombetar i Radio Televizionit* – KKRT) as the main regulatory body. In addition to the Law on Radio and Television, two other telecommunications laws are important for the television sector. These are the Law on Telecommunications in the Republic of Albania,¹² and the Law on the Regulatory Entity of Telecommunications,¹³ which established the second regulatory body, the Regulatory Entity for Telecommunications (*Enti Rregullator i Telekomunikacioneve* – ERT).

¹⁰ Unless otherwise stated, the reference throughout this chapter is to the current (2003) version of the amended law: Law No. 8410 of 30 September 1998 on the Public and Private Radio and Television in the Republic of Albania, as amended by Law no. 8657 of 31 July 2000; Law no. 8794 of 10 May 2001; Law no. 9016 of 20 February 2003; and Law no. 9124 of 29 July 2003, (hereafter, Law on Radio and Television).

¹¹ In the Anglo-Saxon judicial tradition, judges have great freedom in interpreting, and to a certain extent, even making the law. In Western Europe, judges contribute to the implementation of the law by interpreting it under specific circumstances. In Albania, by contrast, if an issue is not specifically regulated by the law – as is the case with digital broadcasting – it is generally considered by the parties involved as not bound by any legal principle whatsoever, and the judges consider themselves unable to rule on it.

¹² Law no. 8038 of 23 November 1995 on Telecommunications in the Republic of Albania, as amended by Law no 8287 of 18 February 1998.

¹³ Law no 8288 of 18 February 1998 on the Regulatory Entity of Telecommunications (hereafter, Law on ERT).

Before the Law on Radio and Television was adopted, in 1998, broadcasting in Albania was basically lawless. By the time that the KKRT became operational, in 2000,¹⁴ many broadcasters were already operating, bound only by their own interests. This situation partly explains the difficulties faced by the KKRT in establishing itself as the regulator of the broadcasters. Even at present, the KKRT is not always successful in enforcing comprehensively its numerous responsibilities. On many occasions, the KKRT's decisions have been contested, not only by the broadcaster who was harmed by the decision but also by the Albanian political establishment.

In fact, the interference of the political establishment – by getting involved in the election of members of the KKRT, by contesting its decisions or by other means – has complicated the relationship between the regulator and the various broadcasters. For example, after the first wave of licensing national radio and television stations in 2000, many television stations refused to accept the KKRT's decisions, claiming that broadcasters had been awarded national licences because they were close to the governing party. Many stations expressed their refusal by broadcasting blank screens and issuing statements and interviews against the KKRT decision for several days. While it has gradually strengthened its position, the KKRT is still far from being seen as an impartial and independent regulator.

The second broadcasting regulator, the ERT, is “a legal person of a public nature”, and is responsible for enhancing telecommunication in Albania, based on the principles of non-discrimination, transparency and fair competition. It is composed of five members, one appointed by the President, two by the Council of Ministers and two by the Parliament.¹⁵ In the television sector, the competencies of this authority concern the establishment of available frequencies for the electronic media, which are then presented to KKRT. Moreover, it plays an important role, together with KKRT, in controlling the technical aspects of signal broadcasting by the licensed operators.

3.1.1 KKRT structure and composition

The Law on Radio and Television states that the KKRT is an independent body, consisting of a chair, a deputy chair and five other members, elected on the basis of their experience and qualifications in the social, juridical, economic, educational, mass media, radio, and television fields.¹⁶ The President of the Republic proposes one candidate, while the other six candidates are proposed by the Parliamentary Standing Committee on the Means of Public Information (hereafter, the Parliamentary Media Committee). Parliament selects the members from among the candidates and elects the

¹⁴ On 8 December 1999, the KKRT received the Council of Ministers' approval to begin paying its staff. In accordance with Article 138 of the Law on Radio and Television, the KKRT began functioning three months after this decision.

¹⁵ Law on ERT, art. 3.

¹⁶ Law on Radio and Television, art. 8.

chair by simple majority voting. The deputy chair is then elected by the members. Members serve a five-year term, and may not serve more than two successive terms. In order to ensure continuity, the terms of members are staggered. This is achieved by providing for a six-year term for the first elected chairman and deputy chairman.

The law lists the restrictions on eligibility for membership of the KKRT.¹⁷ Members are not allowed to belong to political parties or associations. They are not allowed to be members of Parliament or the Government, and they cannot declare themselves publicly as supporters of Parliament or the Government, or act in their interest. KKRT members are also not permitted to be members of joint stock companies with mass media interests or to represent commercial interests that conflict with their function. During their term of service, and for one year after it expires, KKRT members should neither have financial interests related to broadcasting nor should they protect the interest of a company or firm producing audio-visual materials, press publications, advertisements or telecommunications.

In addition to these restrictions, the Parliamentary Media Committee must ensure that the composition of the KKRT reflects a fair balance of representation from the various political groups.¹⁸ This principle of balance was observed by letting the parliamentary majority and opposition propose three members each, with the seventh member being proposed by the President. In practice, however, this formula did not work until recently, because the opposition Democratic Party had refused, since 1998, to propose candidates for the KKRT. The body therefore worked with six members instead of seven until July 2004, when the opposition parties finally agreed to send all their representatives, and the KKRT is now complete.

Another important issue covered by the Law on Radio and Televisions is the KKRT's accountability. While the law provides for an independent broadcasting authority, it also ensures that this authority remains accountable to Parliament. Accountability is achieved by three mechanisms: the annual report, the scope for dismissing members and the possibility of dissolving the entire Council.¹⁹

The KKRT is obliged to present an annual activity report to the Parliamentary Media Committee and to Parliament. If Parliament declines to approve the annual report for two consecutive years, the Council is to be dissolved. The KKRT passed a difficult trial in this test of accountability in 2002, when the KKRT failed to obtain the two-thirds quorum in Parliament. Some of the main charges against the KKRT, chiefly voiced by the opposition, were allegations of double standards in the imposition of fines and the granting of licences and frequencies, as well as allegations of a general lack of objectivity.

¹⁷ Law on Radio and Television, art. 14.

¹⁸ Law on Radio Television, art. 9.

¹⁹ Law on Radio and Television, arts. 7(19) and 15.

In addition to the above-mentioned controls on the Council, Parliament is empowered under the law to dismiss a member of the KKRT if the member:

- is convicted of a criminal offence by a final decision of a court of law;
- becomes unable to perform his or her duty because of illness;
- is absent from more than one third of Council meetings in a year; or
- does not satisfy the stated restrictions on membership.²⁰

Any member who is removed from the Council may challenge their dismissal in court, and can theoretically appeal up to the Constitutional Court. If a member is dismissed, a substitute shall be elected by the normal procedure. The substitute will be entitled to a term of office equal to the time remaining for the predecessor.

The KKRT was initially funded by a direct grant from the Council of Ministers in December 1999. Normally, the law provides for five sources of funding for the KKRT: a proportion of the licence fees; revenues from processing the broadcast licence applications and from all the taxes applying to radio and television broadcasts; five per cent of the annual income tax paid by licensees; State budget funding; and donations. These sources of income serve to defray the overhead costs of the KKRT, which has four departments and one directory.²¹ In 2005 the KKRT will start to draft a strategy for gradually achieving financial independence from the state budget and becoming self-sustaining.

3.1.2 KKRT main competencies

The KKRT's numerous competencies are in many cases only broadly formulated in the law, giving the Council wide scope for action and interpretation. However, in most cases, political groups and the media have not welcomed such an active role by the KKRT. According to the Law on Radio and Television, the KKRT is responsible for overseeing broadcasters' compliance with the Law on Radio and Television. While it is required by law to guarantee fair competition among electronic media, the KKRT is also legally obliged to ensure the existence and further development of the public broadcaster, RTSH.²²

The KKRT also has an advisory role: it offers opinions on the future of radio and television in Albania, on ratifying and enforcing relevant international agreements, and on amendments to national legislation and regulations. Outside of the country, the KKRT represents Albania in international organisations and negotiations regarding

²⁰ Law on Radio and Television, art. 15.

²¹ Decision No. 12 of the KKRT of 26 June 2000 on the Internal Regulation of the National Council of Radio and Television and its Administration. Available (in Albanian) on the KKRT website at http://www.kkrt.gov.al/keshilli_frame.htm (accessed in May 2004).

²² Law on Radio and Television, art. 7(4).

electronic media, and by supporting cooperation with foreign and international broadcasters.

Among its responsibilities for content, the KKRT is in charge of determining production and broadcasting standards for public and private electronic outlets. It is responsible for monitoring the information programmes of national broadcasters and, when it deems necessary, those of local broadcasters. In this regard, the law also provides for the establishment of a Complaints Council as an advisory body to KKRT.²³ This organ, composed of a chairman and two members appointed by the KKRT, is responsible for dealing with the moral and ethical aspects of programming in the electronic media. It is entitled to supervise programming in order to ensure that there are no abuses of violence, sex and dignity by private and public electronic media and investigates complaints in this direction. However, it should be noted that the decisions of the Complaints Council lack binding legal force. The Council is only a tool established to assist the KKRT in discharging its legal responsibilities regarding programming content.

The KKRT is also involved in the broadcast licensing procedure. It is authorised to adopt regulations and bylaws elaborating the general licensing provisions of the Law on Radio and Television. (See Section 3.2.) The latest amendments to the law, in 2003, have made the KKRT also responsible for supervising broadcasters' compliance with broadcasting rights.²⁴

In discharging its responsibilities, the KKRT may demand any information it deems necessary from applicants or licensees, the State administration, courts, banks and other relevant institutions. However, to date, the KKRT has not been very active or successful in this regard. For example, its 2003 annual report stated that 49 per cent of the annual income of television stations came from "unknown" sources, and that no television station had made any profit.²⁵ These were remarkable findings, but the KKRT has not chosen to shed any further light on them. Meanwhile, for 2004, only 60 per cent of the licensed operators submitted their annual balance sheets to the KKRT, and most of them did so in a non-detailed manner, thus rendering it difficult for the KKRT to make any accurate conclusion about their income.²⁶ For the time being, the KKRT seems unable to fulfill its duties.

²³ Law on Radio and Television, art. 18.

²⁴ Law no. 9124/2003.

²⁵ KKRT, *2003 Annual Report*.

²⁶ KKRT, *2004 Annual Report*, Annex 1, p. 4.

3.2 Licensing

The Law on Radio and Television states that:

A licence for radio-television transmission is valid as permission to install technical equipment and gives the private subject the right to transmit. A licence authorises the exploitation of transmission networks with national or local coverage and specifies the work frequencies, the power, the location of installation, the zone of coverage as well as other elements.²⁷

The broadcast licences awarded by the KKRT cover teletext, terrestrial, cable and satellite broadcasting. The KKRT also issues licenses for the installation of booster transmitters for broadcasting foreign programmes and programmes rebroadcast by foreign broadcasters in Albania for the Albanian public. Furthermore, the KKRT may also authorise private and public operators to broadcast from Albania to other countries, in accordance with international agreements. All licences awarded by the KKRT are based on the frequencies made available beforehand for the electronic media by the ERT.

According to the law, there are two types of licence, one for national transmission and one for local transmission.²⁸ Broadcast licences are awarded exclusively by the KKRT, with the exception of cable programmes, where the ERT has the main responsibility for the technical inspection of the broadcaster. Following the award of the licence to the cable operator, the ERT controls the implementation of the technical aspects and gives permission for operating the cable net.²⁹

In principle, for those areas with available frequencies, the KKRT should open a public contest for broadcast licences, on the basis of: criteria established by the Law on Radio and Television, the regulations adopted by the KKRT, the number of bidders and their preferences, and the frequencies made available by the ERT.³⁰ The law guarantees the transparency of the procedure, by requesting KKRT to make public any details. Only successful applicants would then sign a contract with the KKRT. In practice, however, there have not been many applicants for these licences, because most broadcasters were established before the KKRT; so competition has not been strong. The KKRT monitors the compliance of the licensees with their contract conditions. In the event of a violation, the KKRT decides on the imposition of sanctions provided by the law, and it may also require other public institutions to intervene, in line with their competencies and the circumstances of the case.

In cooperation with the ERT, the KKRT controls the quality of signal reception in the licensed areas and requires that public complaints be answered by respective media.

²⁷ Law on Radio and Television, art. 19.

²⁸ Law on Radio and Television, art. 20.

²⁹ Law on Radio and Television, art. 127

³⁰ Law on Radio and Television, art. 21.

Although the quality of the signals is generally satisfactory, there are cases when regulation does not succeed in solving problems between television stations, even when the solution is technical. For example, in January 2004, TV Shijak complained that the KKRT had allowed TV News 24 to power up its transmitter, thus interfering with the reception of the signal of TV Shijak.³¹ Although the KKRT responded by ordering News 24 to adjust the power of the transmitter in agreement with the licence terms, TV Shijak's signal still suffers significantly from time to time.

The Law on Radio and Television excludes the following persons or groups from the right to hold a licence:

- persons who have been deprived of their capacity to act by a final court decision;
- political parties and organisations, religious communities and societies, local government authorities, and other state authorities; and
- public entities with an economic character, banks and other credit institutions.³²

With regard to financial backing, applicants for a national television licence should have a declared and verified capital of at least ALL 100 million (or approximately €787,401),³³ while those seeking a radio license need ALL 20 million (€157,480) in capital. They should be able to pay the fee for the licence, as established by law, and also the taxes on the use of frequencies as established in Albanian tax legislation.³⁴ The applicant should be able to cover over 70 per cent of the territory to which they want to broadcast, with the prospect of extending this coverage within six years to no less than 90 per cent of the territory and the population. This coverage should be achievable in conformity with the technical norms elaborated by the KKRT.

National television licences are awarded for up to eight years and FM radio licences for up to six years. National and local licence applicants must commit themselves to respect the legal and regulatory criteria in the areas of programming structure, duration and substance; news broadcasting; advertising; employment qualifications of staff; public service; and copyright. In addition, applicants for national licences should commit themselves to transmit programmes according to the criteria established, which means not less than ten hours per day for FM radio and not less than six hours per day for television. Radio transmissions should commence within one year of receiving the licence. For television, this grace period is a year and a half. However, the requirement

³¹ Albanian Media Institute, *Albanian Media Newsletter – January 2004*. All AMI newsletters are available (in English) on the AMI website at <http://www.institutemedia.org> (accessed 15 March 2005).

³² Law on Radio and Television, art. 26.

³³ The exchange rate used throughout the report is €1 = ALL 127. ALL is the abbreviation for Albanian *lek*, the unit of national currency.

³⁴ Law No. 8435 of 28 December 1998 on the System of Taxes in the Republic of Albania (hereafter, Law on the Tax System).

to broadcast by the end of the grace period has not always been followed to the letter. In some cases television licences have not been withdrawn, even though this period has passed without any broadcasting, and this has prompted the allegations of double standards, mentioned above.

Like those applying for national licences, applicants for local licences must have verified capital. For local radio licences, the requirement varies from ALL 2 million to ALL 5 million (or approximately €15,748 to €39,370). For local television licences, the capital requirement varies from ALL 5 million to ALL 25 million (€39,370 to €196,850), depending on the location of the broadcasting zone.

Local radio licensees should broadcast not less than six hours daily, and should begin within 180 days of receiving their licence. Local television licensees should broadcast not less than four hours daily, and should begin within 270 days of receiving their licence. Cable licensees should broadcast not less than six hours daily, and should begin doing so within one month of receiving their licence. Local radio licences are awarded for three years, while local television licences are awarded for five years. Within one year of receiving the licence, the licensee should be technically able to penetrate 10 per cent of the households in its broadcasting zone. This reach should be extended to 20 per cent after two years and 50 per cent after five years.

Many broadcasters claim that the licence fees prescribed by law are excessive.³⁵ It has been argued that the reason why the KKRT has so far approved all licence applications, even though there are an unsustainably high number of broadcasters, is to maintain its funding.³⁶ The KKRT claims that it does not reject applicants because it would rather support the development of media outlets than burden them with unnecessary restrictions.³⁷ The fact is that many broadcasters were already broadcasting when the KKRT was established. By the time the KKRT became operational in 2000, it was already difficult to shut broadcasters down, and the only available option was to grant licences to all operating broadcasters, rather than be accused of undermining media freedom. Moreover, the law is flexible in that it provides the option of fulfilling certain conditions within a period of time after the receipt of the licence. Meanwhile, the KKRT itself has been flexible in monitoring the implementation of the law, arguing that strict implementation would result in almost no licences being approved at all.

3.3 Enforcement measures

The Law on Radio and Television states that the KKRT may revoke a licence when:

- the licence has been issued on the basis of false information;

³⁵ Elda Spaho, “Televisionet private: Jo diskriminimit nga RTVSH”, (“Private Broadcasters: No to discrimination by RTVSH”), in *Shekulli* newspaper, 29 January 2004.

³⁶ IREX, *Media Sustainability Index 2002 – Albania*, IREX, Washington DC, 2003, p. 5, available on the IREX website at <http://www.irex.org/msi/2002/country/albania.pdf> (accessed 15 March 2005), (hereafter, IREX, *MSI 2002 – Albania*).

³⁷ KKRT, *2003 Annual Report*.

- the stipulations in the licensing contract have not been met;
- the obligations under this law and other legal obligations associated with broadcasting have been severely violated;
- broadcasting has not commenced, after the stipulated grace period – 180 days for local radio, 270 days for local television, 12 months for national radio and 18 months for national television;
- there has been no broadcasting for 30 days in a calendar year, excluding technical interruptions beyond the authority of the licensee;
- the licensee's circumstances have changed, making it impossible to observe the licence conditions;
- the licensee's property has been put up for auction.³⁸

The KKRT oversees and monitors broadcasters' compliance with their legal and contractual requirements, and it is empowered to sanction violations. The sanctions should be imposed no later than one year after the violation was committed.³⁹ A sanction can be a warning, a fine of anywhere from ALL 20,000 to ALL 1,500,000 (or approximately €157 to €11,811) or suspension, shortening or revoking of a licence. The KKRT must notify the licensee before imposing a sanction, giving them an opportunity to respond. Should the KKRT proceed with the sanction, the licensee must be given a copy of the decision. The KKRT is obliged to publish the decision in the following number of the *Official Journal*, and in its *Bulletin*.

The sanctions imposed by the KKRT constitute administrative sanctions, and they may be challenged to the KKRT and in the respective court of law. Even a decision by the KKRT to refuse an application (which has never happened yet) may be challenged legally, by the applicant or other affected parties.

It should be remembered that Albania's broadcasting sector was essentially lawless until 1998. For this reason, the KKRT did not initially seek a high profile. However, the KKRT has gradually strengthened its position, increasing the pressure on Albanian broadcasters to comply with the law. The KKRT has imposed sanctions against a number of broadcasters, especially since 15 October 2003, when the latest amendments to the Law on Radio and Television came into force, making the KKRT responsible for ensuring compliance with broadcasting rights. TV Shijak, Telenorba Shqiptare, TV Koha, AVN, Skampa, Alsat and others have been fined for violating these amendments.⁴⁰

³⁸ Law on Radio and Television, art. 34.

³⁹ Law on Radio and Television, art. 137.

⁴⁰ For example: fine no. 63 for TV Rozafa, 3 March 2004; fine no. 68 for TV skampa, 12 March 2004, fine no. 90 for TV Telesport, 29 September 2004. Information obtained from the Department of Jurisdiction and Licences, KKRT, 23 May 2005.

Among these broadcasters, TV Shijak, which has been fined several times for violating broadcasting rights, claimed that the sanctions were politically motivated.⁴¹ Its main argument was that the KKRT had not sanctioned identical violations by stations that support the current Government. This objection was not convincing, because TV Shijak really was in breach of the law and also because it provided no evidence of unsanctioned offences committed by other outlets. Eventually, in late December 2004, KKRT decided to withdraw the broadcast licence from TV Shijak, on the grounds that it had not paid its dues to the regulator and it continued to broadcast programmes without the broadcasting rights. Since this decision, the station made the payment and stopped broadcasting pirated programmes, but the matter is presently in court, where TV Shijak is appealing the judgment in favour of the KKRT.⁴²

Another KKRT sanction that caused controversy was the case of Alba TV and Alsat. The KKRT removed Alba TV's transmitter on 7 August 2003, on the grounds that the station had not paid its annual licence taxes to the KKRT and had suspended its broadcasts without notifying the KKRT. Alsat was also caught up in this case, because it was using Alba TV's transmitters. In June 2003, Alba TV had signed an agreement with Alsat, which only had a satellite-broadcasting licence, so that the latter could broadcast terrestrially via Alba TV. According to the KKRT, this agreement was not valid, because the Law on Radio and Television at the time of the agreement forbade holders of satellite licences from terrestrial broadcasting. This prohibition was only lifted under subsequent amendments to the law adopted in 2003, which permit licensees for terrestrial broadcasting to rebroadcast their programmes by satellite, and vice versa.⁴³

Alsat and Alba TV claimed that this decision was purely political, because the non-payment of taxes pertained to the case of Alba TV only, and they maintained that the KKRT should have warned the station before removing the transmitters. Moreover, Alsat argued that, at the time the transmitters were removed, the 2003 amendments to the Law on Radio and Television had already been adopted by Parliament. Alsat contested the KKRT's action, maintaining that the entry into force of these amendments was a formality.⁴⁴ The case went to court, where KKRT won. Alba TV was closed down by bankruptcy, while Alsat, after obtaining the required licence, is now broadcasting terrestrially as well on channel E7 VHF, covering the Tirana-Durres region.

⁴¹ TV Shijak is indeed known among media experts and the general public for its links to right-wing figures and for its criticism of the present Government, which is formed by the Socialist Party and its allies.

⁴² Court decision no. 1732, 30 March 2005, no. of act 2166, reference obtained from Argita Shkupi, Head of Department of Jurisdiction and Licences, KKRT, Tirana, 23 May 2005.

⁴³ Law on Radio and Television, art. 136(1).

⁴⁴ According to the law, every amendment enters into force after its publication in the *Official Gazette*, or within the time frame established within the law itself. Neither of these criteria was fulfilled in this case.

The KKRT also supervises the public broadcaster's fulfilment of its obligations. According to the Law on Radio and Television, the KKRT may either fine RTSH itself or notify other relevant authorities if the public broadcaster does not meet all its obligations,⁴⁵ but the KKRT has not yet done so. This lack of sanctions is perceived as being due to RTSH's public status and the damaging consequences that sanctions could have. RTSH already has a poor public image, and sanctions certainly would not help. Before the private media emerged, RTSH was in the spotlight, but since then the situation has changed dramatically, and RTSH receives extremely little attention in public debate.

In sum, the KKRT has not yet managed to remove concerns that most of its decisions are influenced by one political group or another, and by the Government most of all. This concern remains even though, as is often pointed out by the KKRT itself, almost all lawsuits against the KKRT have issued in its favour.⁴⁶ Meanwhile the KKRT itself, despite its increased authority, is still a long way from being seen as an impartial and independent regulator.

3.4 Broadcasting independence

The Constitution states that freedom of the press, radio and television is guaranteed.⁴⁷ In similarly general terms, the Law on Radio and Television states that "editorial independence is guaranteed by law."⁴⁸ In addition to this broad provision, the law seeks to guarantee the independence of broadcasting through a number of important provisions pertaining to the regulatory authority, public broadcasting, content, sponsorship and other areas.

Unfortunately Albanian broadcasters have not tried to give concrete meaning to these broad guarantees. Albania suffers in general from a culture of dependence within the working sphere. There is little sense of initiative, and employees are accustomed to meekly obeying the rules. This culture of blind obedience is strongly felt in the media sector. The existing dependence is partly a legacy of the communist era, when the media were under effective and complete control of the ruling party. Journalists lived with the continuing threat that an unintentional, politically incorrect statement could put their very life in danger. Freedom of expression was an unthinkable notion, and critical and

⁴⁵ Law on Radio and Television, art. 137.

⁴⁶ Comment from OSI Roundtable, Tirana, November 8, 2004 (hereafter, OSI roundtable comment). *Explanatory note: OSI held roundtable meetings in each country monitored to invite critique of its country reports in draft form. Experts present generally included representatives of the Government and of broadcasters, media practitioners, academics and non-governmental organisations. This final report takes into consideration their written and oral comments.*

⁴⁷ Constitution of the Republic of Albania, approved by Parliament on 21 October 1998, adopted by the Referendum of 22 November 1998, and in force since its promulgation by the President of the Republic on 28 November 1998, art. 22.

⁴⁸ Law on Radio and Television, art. 5.

independent thinking were fiercely repressed under Albania's Stalinist-style regime. This situation contributed to the present mentality, under which journalists, especially middle-aged and older journalists, do not actively seek to achieve editorial independence.

While the old system discouraged journalists from arguing with their superiors, the existing conditions within the media sector also tend to encourage acquiescence and obedience. The labour market within the sector is quite unstable. It is very easy to enter this market. As one report put it: "You can finish your studies in agriculture and still immediately become a journalist in Albania."⁴⁹ In fact, most media proprietors prefer to employ young, inexperienced persons as journalists. These journalists are then expected to obey the clear rules given by superiors. They do not tend to disobey, since, on the one hand, they lack professional experience and, on the other hand, alternative employers would treat them no differently.

As for the experienced journalists, who together with the public have an interest in strengthening the independence of broadcasting, they can hardly make a difference due to their disorganised and weak legal position *vis-à-vis* their owners. Most commercial broadcasters operate without internal regulations to guarantee broadcasting independence. A code of conduct was drafted some time ago by the two main journalists' associations and the Albanian Media Institute, the principal NGO dealing with media issues, but most media owners have not yet recognised the necessity of such a code. In fact, some of the media companies do not even sign employment contracts with their employees. Even when these contracts exist, the State authorities' indifference and reluctance to act makes it possible for the employer to break the contract without legal consequences. Court proceedings in Albania remain expensive and time-consuming, and confidence in the judicial system is extremely weak. In some cases, the execution of court orders takes even longer than the proceedings. This might explain why, even though a great number of journalists have been fired by their respective media in these last five years, very few of them, if any, have obtained redress from the courts.

There are several journalists' associations, which remain extremely weak. The two principal associations, the League of Albanian Journalists and the Association of Albanian Journalists, have not made any notable attempts to raise awareness among journalists and organise them for their common good. There are also other journalists' associations, established on the basis of a special interest, such as environmental reporting, or on a regional basis, such as the League of Northern Journalists, or by gender. However, rather than standing up for causes that could benefit the media community, and probably the public interest, these often one-person associations – which in many cases appear to represent no real membership – often seem to have been created for their founders' personal interest. The International Research and Exchanges Board (IREX) has

⁴⁹ Unidentified source quoted by the International Research and Exchanges Board (IREX). See: IREX, *Media Sustainability Index 2003 Albania*, IREX, 2004, p. 6, available on the IREX website at <http://www.irex.org/msi/2003/MSI03-Albania.pdf> (accessed 29 May 2005), (hereafter, IREX, *MSI 2003 Albania*).

supported the idea of establishing a trade union for journalists, but all attempts to set up an effective organisation have failed so far, due to lack of cooperation within the media community, or even lack of interest in changing the situation.

Other NGOs and intergovernmental organisations have not dealt extensively with this issue, partly because of lack of interest, and partly because of the opinion that this initiative should emerge from the media community itself, and should not be engineered externally. In sum, the situation of broadcasting independence is equally poor in the public and commercial sectors. The difference is that due to the growing importance of private electronic media, the latter receive much more attention.

4. REGULATION AND MANAGEMENT OF PUBLIC SERVICE BROADCASTING

The public service broadcaster, Radio-Television of Albania (*Radio Televizioni Shqiptar* – RTSH), underwent the formal transformation from a State-owned institution into a broadcaster of public character with the entry into force of the 1998 Law on Radio and Television. In recent years, RTSH has received more than half of its budget from the State. Such financial dependence on the Government makes this body very sensitive to Government policy, and it also discourages RTSH from taking the initiative to reform itself into a true public broadcaster. As a result, the range of programmes produced, and the information conveyed, by RTSH does not satisfy the public interest. The poor programming has caused a drop in the influence of RTSH's television station, Albanian Television, (*Televizioni Shqiptar* – TVSH), which has been eclipsed by the speedy development of the commercial television sector.

RTSH has not been offered significant support and expertise in reforming itself to cast off the legacy of State-owned broadcasting. Given the way the political establishment is able to influence RTSH, the lack of transparency and management reforms for the organisation, and the low staff morale and motivation, the current situation points to an urgent need for legal amendments and continuing reforms that would give real meaning to the public service remit bestowed on this institution by law.

4.1 The public broadcasting system

RTSH carries out public service broadcasting through its national television station, TVSH, and its national radio station, Radio Tirana (RT). These institutions were officially transformed from State-owned radio and television into public radio and television when the Law on Radio and Television came into force, but much work remains to be done for this broadcaster to fulfil its public mission. RTSH functions as

a public legal person, while TVSH and RT have limited competencies, such as for example the right to enter co-production relations with third parties.⁵⁰

RTSH is regulated by the Law on Radio and Television as well as by its own statute. The Statute of RTSH defines the structure of the institution; the governing bodies and their competencies; the criteria and procedures for appointing and dismissing the Deputy General Director, the directors of RT and TVSH, and the heads of departments; the job descriptions for all the categories of RTSH employees; and the description of RTSH's financial and economic activity.⁵¹

Because it has the distinctive aim of providing public service broadcasting (and also constitutes a public legal person) there are a number of substantial differences between RTSH and private broadcasters. For one thing, RTSH does not require a broadcast licence.⁵² Furthermore, RTSH's national programmes must reach at least 90 per cent of Albania's citizens.⁵³ At present, RT's signal covers 80.5 per cent of Albania, while TVSH covers 73.3 per cent.⁵⁴ Due to the lack of monitoring and measuring capabilities, combined to the large internal migration there is no comprehensive data on the percentage of the population inhabiting the above-mentioned territory.

The most important difference between these stations and commercial ones is the programme content. RTSH should have a wider range in terms of quantity and quality, and it should transmit programmes that serve all the public. This includes the unpaid production and broadcasting of certain programmes, notices and advertising spots.

In fulfilling its mission, RTSH receives assistance from the State budget, in an amount that may differ each year at the Government's discretion. Other sources of income include advertising revenue, sale of its productions to interested parties, leasing of antennas and transmitters to private operators, and the fixed annual tax paid by households.

4.2 Services

RTSH presently broadcasts one national television channel and two national radio channels; one radio channel in foreign languages; and the Diaspora channel, which goes out on short-wave; as well as regional broadcasting centres throughout the country. Despite the limited number of available national frequencies, and despite the poor performance of the public broadcaster in comparison with the private sector, the law grants two national television frequencies to RTSH. However, one of those

⁵⁰ Decision no. 440 of Parliament of 1 June 2000 on the adoption of the Statute of Albanian Radio Television, art. 4, (hereafter, RTSH Statute).

⁵¹ RTSH Statute, art. 4.

⁵² Law on Radio and Television, art. 21.

⁵³ Law on Radio and Television, art. 71.

⁵⁴ KKRT, *2003 Annual Report*.

frequencies goes unused, because budget constraints have prevented RTSH from opening up the second national station.⁵⁵

So that RTSH can achieve its objectives, the law entitles the broadcaster to produce programmes; to join and commission productions; to organise concerts and public performances; to publish music, video and audio products, newspapers, magazines and books related to its programmes; to sell its own programmes and advertising slots; to publish other paid messages; and to enter into contractual relations with third parties for these purposes.⁵⁶

The Charter of RTSH defines the business activities it may engage in. Under this Charter, RTSH may carry out teletext services; produce, stage and transmit programmes for third parties; organise commissioned productions; produce and sell advertisements and other commercial messages; buy, sell, exchange and lease programmes, films and videos; sell its musical recordings; and lease radio television studios and equipment to third parties.⁵⁷ RTSH may also produce and publish magazines and other materials to promote its programmes as well as publish books in the public interest. RTSH property may not be sold.

4.3 Funding

The Law on Radio and Television states that RTSH is funded from the following sources:

- a licence fee, payable on ownership of a television set that is capable of receiving RTSH programmes;
- contracts with third parties for various broadcasts, to utilise spare technical capacity;
- other programme services;
- publication of video and audio musical productions, books, newspapers and journals related to various programmes;
- performance activities and public shows;
- other activities defined in the RTSH Statute;
- advertisements and publication of other paid messages;
- donations and sponsorships;
- sale of RTSH programmes to any interested party;
- the State budget.⁵⁸

⁵⁵ Interview with Alfred Dalipi, RTSH Deputy General Director, Tirana, 4 February 2005.

⁵⁶ Law on Radio and Television, Chapter VIII.

⁵⁷ RTSH Statute, art. 49.

⁵⁸ Law on Radio and Television, art. 115.

Moreover, the law provides that “the ministries and other State institutions shall fund special projects of national importance in the fields of culture, science, and education with the approval of the RTSH Steering Council.”⁵⁹

The RTSH Statute also allows RTSH to derive income from leasing equipment; granting the right to use its premises and transmission infrastructure, television stations and repeaters; and selling services, such as production, staging and transmission of programmes, to third parties. According to the Law on Radio and Television:

The fees associated with utilising the RTSH premises, or equipment, installing or utilising the broadcasting equipment of other radio and television operators, as well as the specific contract, shall be prepared by RTSH, based on technical and economic indicators. The National Council on Radio and Television approves them after considering any objections raised by radio and television operators.⁶⁰

The extent of funding from the State budget is established in the Law on the Annual State Budget, based on the yearly budget of RTSH, as approved by the Steering Council. The Parliament approves the annual State budget, which includes the sum allocated to RTSH, but it does not deal specifically with the RTSH budget, which is prepared internally without need for Parliamentary and KKRT approval. The amount is set at the beginning of the year by the Government, when planning the overall annual State budget, and it changes each year. This sum is also used to fund radio services for citizens living outside Albania; radio services for foreign audiences (in foreign languages); television services for Albanians outside Albania; important technical projects to introduce new technologies in production and broadcasting; important film-production projects or major pan-national artistic activities; as well as the RTSH and Cinematography symphony orchestra.

As shown below in Table 2, RTSH’s total budget in 2004 was ALL 990 million (€7.79 million), of which 58 per cent (ALL 575 million) came from the State budget (including ALL 141 million to be invested in equipment and technology).⁶¹ In the two previous years, the figures were similar.⁶² The 2005 RTSH draft budget is a total of ALL 951 million (€7.48 million), of which 58 per cent would come from the State budget.⁶³

⁵⁹ Law on Radio and Television, art. 118.

⁶⁰ Law on Radio and Television, art. 85(2).

⁶¹ RTSH, *Projektbuxheti per vitin 2005, (Draft Budget for 2005)*, RTSH General Directorate, Tirana, 11 February 2005, p. 3, (hereafter, RTSH, *Draft Budget 2005*).

⁶² Interview with Alfred Dalipi, 29 July 2004.

⁶³ RTSH, *Draft Budget 2005*, p. 15.

Table 2. RTSH Budget (2000–2005)

		2000	2001	2002	2003	2004	2005 (planned)
Total Budget	ALL (million)	–	–	930	1,000	990	951
	€ (million)	–	–	7.322	7.874	7.795	7.48
Funding from the State budget	ALL (million)	550	600	640	571	575	560
	€ (million)	4.331	4.724	5.039	4.496	4.527	4.409
	As a share of total budget (per cent)	–	–	69	57	58	59
Funding from advertising revenue	ALL (million)	–	–	–	–	86	86
	€ (million)	–	–	–	–	0.677	0.677
	As a share of total budget (per cent)	–	–	–	–	8.6	9.0

Source: RTSH⁶⁴

The licence fee, currently set at ALL 800 (€6.3) per household per year, is supposed to constitute one of the main sources of income for the public broadcaster, thereby guaranteeing its independence. Remarkably, however, this revenue is not itemised in the RTSH budget and no information is available on the sum collected.⁶⁵

While the level of the licence fee is established by law,⁶⁶ advertising income depends mainly on RTSH itself. The advertising fees, in accordance with the duration of the advertisements and the hours of transmission, are proposed by RTSH's Marketing Directorate, considered by the Management Council and approved by the General Director. Like the income from the licence fee, advertising incomes also remain limited, even though there are no legal limits on the amount of advertising that RTSH may carry. In 2004 the advertising income was ALL 86 million (or approximately €677,165), accounting for 17 per cent of RTSH's total self-generated revenue or 9 per cent of the total budget. The 2005 RTSH draft budget states that RTSH plans to generate the same percentage of revenue from advertising for this year, too.⁶⁷

The level of funding of RTSH, and the use of the available funds, should be a cause of concern, even though these matters have not been discussed very much in public. According to the Law on Radio and Television, the Steering Council is supposed to conduct an annual financial analysis of the institution and make the report public. To

⁶⁴ Data for 2005 from: RTSH, *Draft Budget for 2005*, p. 1; and Interview with Alfred Dalipi, 29 July 2004. (Dalipi corrected some figures in the draft budget, which is not publicly available.)

⁶⁵ The State levies the licence fee annually, as a supplement to one of the monthly domestic bills for electricity, so the revenue is included in the general state budget.

⁶⁶ Law on the Tax System.

⁶⁷ RTSH, *Draft Budget for 2005*.

date, the Steering Council has failed to comply with this duty. As a result, the general public, and interested parties in the industry, lack information on the management of RTSH funds.

Because RTSH regularly receives most of its budget from the State, it is not encouraged to be more enterprising, to take initiatives, to make reforms or introduce flexible methods of management. Moreover, the continuing lack of transparency in the management of Government funds by the public broadcaster must raise concerns about editorial independence, as well as mismanagement and possible corruption.

These concerns are often raised mainly, but not exclusively, by RTSH staff. In December 2004, the Director of the Supreme State Audit pressed charges against RTSH General Director Artur Zheji for abuse of office.⁶⁸ The Supreme State Audit had conducted a review of the financial management of the public broadcaster for 2003 and the first half of 2004. During this audit, various violations were discovered, and Zheji was considered the official primarily responsible. In most cases, the violations concerned the fact that the public broadcaster had not acted against other parties for failing to comply with their contractual financial obligations. The accumulated debt of these parties to RTSH stands at ALL 131,089,229 (€1,032,198).⁶⁹ The Supreme State Audit's report shed further light on the increasingly difficult financial situation of the public broadcaster, a situation that is potentially due to inefficient management. The Supreme State Audit is supposed to audit RTSH on an annual basis.⁷⁰ This audit is meant to examine RTSH's compliance with the relevant legislation in following financial procedures and documentation, such as tender procedures and procurements of different kinds. However, this audit has not been conducted on a regular basis.⁷¹

The Union of RTSH Employees has issued a series of similar complaints, regarding the working conditions and the financial situation of RTSH, in the past. The union has accused the management of abuse of funds and the Government of neglect. Such accusations are not new. Edi Mazi, who preceded the Zheji as General Director, resigned over corruption charges, which were later dropped due to lack of evidence.⁷²

Apart from the income it generates itself and that which it receives from the State budget, RTSH can also accept foreign aid or other donations. However, in the course of the last decade, foreign aid has been sporadic and mainly focused on technical issues,

⁶⁸ Lawsuit of Supreme State Audit, 24 December, 2004, published in *Sot* newspaper, 16 January 2005, p. 7.

⁶⁹ Supreme State Audit (Kontrolli i Larte i Shtetit), *Raport perfundimtar kontrolli ne Drejtorine e Pergjithshme te RTSH, (Supreme State Audit Report on RTSH)*, published in *Monitori Shqiptar i Medias*, 2004/2, p. 250.

⁷⁰ Law no. 8270 of 23 December 1997 on the Supreme State Audit.

⁷¹ Interview with Alfred Dalipi, RTSH Deputy General Director, Tirana, 24 February 2005.

⁷² Albanian Media Institute, *Albanian Media Newsletter*, February 2004.

such as digital equipment, and it has not been a significant element of income at RTSH. While this aid has certainly been useful, there has been no foreign consultancy on a major scale. RTSH could benefit from foreign assistance and consultancy with such challenges as drafting an adequate and sustainable strategy for reforming the station into a public broadcaster. Instead, outside support has been smaller. For example, in 2004 foreign aid consisted of €10,000 from Deutsche Welle and €5,000 from ZDF in the form of technical assistance.⁷³ According to Alfred Dalipi, RTSH receives no other Government, bilateral, or EU funding or assistance.⁷⁴

The situation changed significantly in 2005, now that RTSH has signed a contract with the Chinese Government for assistance in kind – including equipment and technical assistance – amounting to €116,000 per year over 15 years.⁷⁵ Furthermore, RTSH has leased a concession on one local transmitter to Radio Beijing, enabling it to broadcast in FM, in addition to leasing broadcasting time on another transmitter, which is used by other stations, such as Deutsche Welle and Voice of America. The Chinese side has engaged in the complete reconstruction of the transmitter conceded to them. The whole project for the duration of 15 years amounts to €27 million, while the annual lease paid to RTSH for the transmitter concession is €386,500 and €773,000 for a second transmitter, where they share broadcasting time with other foreign radio stations.⁷⁶ Again, while RTSH can certainly use any kind of foreign assistance, expertise in implementing satisfactory reform would be an important way to help TVSH successfully fulfil its public service mission.

4.4 Governance structure

The Law on Radio and Television establishes three governing organs for RTSH, the Steering Council, the General Director and the Management Council.⁷⁷

The Steering Council

The Steering Council is the highest organ of RTSH. It consists of 15 members, elected by Parliament for a period of five years, with the possibility of re-election after a break of three years. The members are elected from among well-known personalities in culture, art, cinema, journalism, law, economics, the media, public relations, international relations, the universities and the Academy of Sciences. Members of Parliament, ministers, senior government officials, leading members of political parties, RTSH employees or employees and owners of private media are barred from membership.

⁷³ Interview with Alfred Dalipi, 4 February 2005.

⁷⁴ Interview with Alfred Dalipi, 29 July 2004.

⁷⁵ Interview with Alfred Dalipi, 4 February 2005.

⁷⁶ Interview with Alfred Dalipi, 24 February 2005.

⁷⁷ Law on Radio and Television, art. 86.

Under the present formula used to appoint the Steering Council, five members are proposed by the ruling majority, five members are proposed by the opposition, and the other five members should come from the ranks of civil society activists.⁷⁸ The opposition considers that this formula hurts the independence of the institution. According to this view, the civil society members in fact support the parliamentary majority.⁷⁹ Whether this has actually been the case would be very difficult if not impossible to establish. Supporters of this formula, on the other hand, argue that it is the only way to ensure the essential civil society element in the membership of the public institution. In general the current formula is an improvement over the previous one, according to which nine members represented public and civil society institutions, while the other six were selected from among a list of 12 candidates, in proportion to party strength.⁸⁰ The *de facto* right of the opposition to influence the composition of the Steering Council was put into strong doubt by the old formula, which made the election of the six candidates dependent on the vote of the majority. Moreover, there was a risk of having nine members representing public and civil society institutions while actually supporting the opposition. According to the present formula, at least the right of the opposition to influence the composition is guaranteed regarding five members. The current Steering Council of RTSH was elected on 29 July 2002.

The Steering Council should meet at least once every two months, with a quorum of at least half its members. It appoints its chair and vice-chair. It is an important decision-making organ and its decisions require a one-third vote in support.

The RTSH Steering Council's main competencies are as follows:

- to approve the regulations for its activity;
- to approve the RTSH Statute within 70 days of its first meeting;
- to appoint and dismiss the General Director by a two-thirds majority, according to the procedure defined in the Statute, no later than one month after its first meeting;
- to appoint and dismiss the Deputy General Director and the directors of Radio and Television by a simple majority vote at the proposal of the General Director, no later than one month after the latter's appointment;
- to approve the members of the Management Board at the proposal of the General Director;
- to approve the strategy, organisational structure and programme structure of RTSH;

⁷⁸ Law on Radio and Television, art. 88.

⁷⁹ OSI roundtable comment.

⁸⁰ Law 8655 of 31 July 2000 on Some Amendments to Law No. 8410 of 30 September 1998 on the Public and Private Radio and Television in the Republic of Albania.

- to monitor the impartiality, objectivity and comprehensiveness of programming;
- to approve the main criteria for staff recruitment, performance assessment, and remuneration;
- to advise the General Director concerning the programme and to assist in determining programme norms and concepts;
- to advise and assist the General Director in carrying out his programme responsibilities;
- to state in writing its position on broadcasts violating RTSH's programme principles, to advise the General Director in such cases, and to demand guarantees for preventing further violations;
- to draft the annual report on RTSH activities for submission to Parliament by the end of March.⁸¹

Membership of the Steering Council may be terminated by Parliament in the event of a conflict of interests, mental or legal incapacity, non-attendance at meetings for six consecutive months, or the submission of a written resignation. By limiting the removal from duty to these specific circumstances, the law limits the discretionary power of the Parliament over the members of the Steering Council. The Steering Council remains accountable to Parliament through the annual report.

Despite the formula used, and the current parliamentary majority, none of the Steering Councils appointed up to now have succeeded in adopting a strategy document on the prospective development of RTSH. Moreover, the Steering Councils have recently even failed to adopt the programme frameworks (see section 4.5 below), due to the poor quality of the proposals coming from RTSH's creative staff.⁸²

The General Director

The General Director has substantial authority. He or she reports to the Steering Council, but is not obliged to execute the Steering Council's orders. The main competencies of the General Director are as follows:

- manages RTSH's programming, financial and business activity;
- proposes the Deputy General Director, the members of the Management Council, and the Director of TVSH and RT to the Steering Council;
- appoints, suspends or dismisses the heads of departments and sectors, and their deputies, at the proposal of the directors of Radio and Television, except where the law or RTSH Statute directs otherwise;

⁸¹ Law on Radio and Television, art. 99.

⁸² OSI roundtable comment.

- ensures that programmes comply with the law;
- makes decisions related to organisation, finances and salaries, after consulting with the Management Board, on the basis of criteria determined by the Steering Council;
- represents RTSH at home and abroad, as well as before a Court of Law;
- ensures the legitimacy of the institution's activity;
- coordinates RTSH's administrative bodies and resolves disputes among them.⁸³

In addition, the RTSH Statute makes the General Director responsible for organising monthly meetings with the directors of departments, providing written reports to the Steering Council and intervening to change or stop programmes being broadcast – when there is a national emergency or when human rights, and in particular children's rights, are violated.⁸⁴

The Steering Council nominates and releases the General Director. Those not eligible for the position of General Director include members of Parliament and Government, senior members of political parties, members of the RTSH Steering Council, and owners, co-owners or members of any private media company. The General Director should be chosen from at least two candidates, who have emerged on the basis of open competition as laid down in the Statute. If no candidate receives two thirds of the votes, they present their action plans for RTSH's structure and management separately to the Steering Council. The Committee then votes again. If once again no candidate secures the necessary majority, the vote is repeated. In the event of a third failure, the candidate who received the most votes would become General Director. The General Director serves a five-year term.⁸⁵

The Steering Council that was established on 29 July 2002 had challenged the election of the current General Director, Artur Zheji by the previous Committee, on the grounds that fewer than half the members voted.⁸⁶ However, after further consideration, and following the interpretation of the Constitutional Court,⁸⁷ the Committee concluded that its authority in this regard was limited to appointing and dismissing the General Director, and it did not have the authority to challenge his election by the previous Committee.

The Union of RTSH Employees has repeatedly claimed that the election of the General Director is a purely political affair. According to the Union, successive General

⁸³ Law on Radio and Television, art. 102.

⁸⁴ RTSH Statute, art. 17.

⁸⁵ RTSH Statute, art. 11.

⁸⁶ The Law on Radio and Television (art. 95) states that the regular meetings of the Steering Council shall be held when half the members are present.

⁸⁷ Albanian Media Institute, *Albanian Media Newsletter*, February 2004.

Directors have not been appointed because of any relevant skills, but solely due to their political connections.⁸⁸ Other groups share this opinion, including various members of the Steering Council.⁸⁹ Even politicians closely concerned with the media, such as Musa Ulqini, Chair of the Parliamentary Media Commission, admit that up until now, the priority in selecting RTSH General Directors has been finding a person who can guarantee the impartiality of the news output rather than finding someone who can ensure the overall efficient management of the institution.⁹⁰

Other RTSH senior officials are the Deputy General Director and the directors of RT and TVSH. They are responsible to the General Director, who nominates them, and to the Steering Council, which decides on their nomination or release. The heads of departments within RA and TVSH report to their respective directors.

The Management Council

The Management Council is the consultative organ of the General Director. It advises him or her on a number of important issues, but it has no advisory role regarding programming content. The Management Council's main competencies are as follows:

- drafting the financial rules, for approval by the General Director;
- drafting the budget, preparing the annual accounts and supervising their implementation, on behalf of the General Director;
- assessing the profitability of RTSH's business ventures, such as leasing of equipment, provision of payable services and production of commissioned programmes;
- examining contracts that involve an expenditure of more than five per cent of RTSH's annual budget;
- providing opinions on expenses envisaged in the annual budget; the Steering Council approves the Management Board's proposals related to the expenses envisaged in the budget;
- submitting financial reports and balance sheets to the General Director;
- carrying out other duties as defined in the Statute;
- requesting and receiving information as required from RTSH departments and sectors.⁹¹

⁸⁸ Press Release of RTSH Union, 21 February 2004, published in *Sot* newspaper, 22 February 2004.

⁸⁹ OSI roundtable comment.

⁹⁰ OSI roundtable comment.

⁹¹ Law on Radio and Television, art. 112.

The Management Council's consent is obligatory in a number of situations, including property transactions, employment contracts and other negotiations and agreements with the staff and Unions.

The Management Council is comprised of five members who are proposed by the General Director and elected by the Steering Council. Two members must be from outside the RTSH staff, and their membership involves only part-time responsibilities. Members should be experts in finance, business and management. The restrictions on eligibility for the General Directorship also apply to membership of the Management Council. Members can be removed for violating the law or regulations; for conviction of a criminal offence; for unjustified absence from four consecutive meetings; and when eight or more members of the Steering Council find them incapable of exercising their duties. In the event of a dispute between the General Director and the Management Council, the latter may approach the Steering Council.

Relationship between RTSH governing organs

The power structure described above is intended to guarantee RTSH's balance and impartial functioning, as well as its legitimacy as a public institution. Unfortunately, the legal provisions have not produced the desired result. In fact, many observers, including members of the RTSH governing structures, complain that the way the system is set up is the main source of the problem.

Members of the Steering Council say their powers in relationship to the General Director are too limited.⁹² Some Steering Council members say the main decisions are taken by the General Director, and their role is less significant. For instance, most of the RTSH employees are appointed and dismissed by the General Director, so it is difficult for them to take decisions that may contradict the interests of the General Director, even when employees should make such decisions. One example that was cited at the OSI roundtable in Tirana is employment in the Audit Directory, which is in charge of controlling the management of funds by all RTSH structures, including the General Director. Other complaints centre around the authority of the Management Council. Some say this body goes beyond the limits of an advising body, in particular in some issues of finance.⁹³

In sum, RTSH governing structures show poor understanding and acceptance of their relationship as described in the law. This might be one of the reasons why there are complaints that a system constructed on principles of power distribution and decentralisation are controlled by only one person, the General Director. The easiest solution under such circumstances would be to amend the power relationships of RTSH structures by amending the Radio and Television Law again and the RTSH

⁹² OSI roundtable comment.

⁹³ OSI roundtable comment.

Statute, to create a clearer division of competencies and less intra-reliance. Whether this would also be the most efficient solution remains arguable.

As for the performance of successive General Directors, they have turned out to have problems with reforms and improvement, not so much due to their professional abilities but rather because it is difficult to find a General Director who has not been accused of staying too close to Government interests or those of the ruling party.

4.5 Programme framework

4.5.1 Output

There are no statistics for TVSH's annual output by genre. No independent monitoring exists, but KKRT did monitor the station's output for one month. KKRT's review, conducted over the course of December 2003 to look at the programming structure of television stations after the latest amendments to the Law on Radio and Television – on anti-piracy – were implemented,⁹⁴ found that 73 per cent of RTSH's programming was self-produced.⁹⁵ During the monitored month, entertainment programmes ranked first, taking up 47 per cent of broadcasting time. Information programmes, including broadcasts from Parliament, were second, taking up 35 per cent of the time. Programmes on education and social issues did not even reach 2 per cent. If this brief analysis was indeed representative of TVSH's output in general, then – with the exception of information programming – its output does not differ radically from the private television stations, where entertainment occupies most of the broadcasting time.

In fact, it seems that RTSH's programmes mirror the pattern set by private broadcasters – something which, in itself, casts doubt on RTSH's fulfilment of its public service mission. Any examples of serious investigative journalism are still unknown to TVSH, as this type of reporting is generally lacking in Albanian journalism. Artistic or entertainment programmes, often repeated, make up most of TVSH's output. Programmes covering social issues are still quite rare and superficial. Coverage of cultural activities and interviews with famous personalities account for a high percentage of broadcasting time on TVSH. Overall, TVSH's programme framework is difficult to define in clear terms. As mentioned above, it has at times worked without programme frameworks approved by the Steering Council.⁹⁶

While it is impossible to determine the quantity or genre of new programmes, RTSH has not escaped the practice of repeating old programmes. Since the number of newly produced programmes remains very limited, RTSH continues to rebroadcast, and, as

⁹⁴ Law no. 9124/2003.

⁹⁵ Monitoring of television by KKRT in December 2003 (unpublished material), (hereafter KKRT, *Monitoring of Televisions*).

⁹⁶ OSI roundtable comment.

result of the competition from the private media, it is highly probable that the number of viewers who watch RTSH regularly has decreased substantially. For example, in 2002 TVSH's audience reached its peak in the main evening news bulletin, with an audience share ranging from 19 to 25 per cent of all viewers surveyed in Tirana over a week.⁹⁷ According to the same survey for the following year, the same news edition had a rating of between 6 and 12 per cent of viewers.⁹⁸

4.5.2 Programme guidelines

Most of the legal obligations on programme content apply to public and private broadcasters alike. The Law on Radio and Television imposes extra obligations on RTSH, however: its programmes should be of high quality and serve "all groups of society, national minorities included".⁹⁹ The programmes of RTSH should reflect the variety of Albanian life for listeners and viewers of all ages. These programmes should also serve a specific purpose: informing, educating, entertaining and enriching the mental and spiritual life of the public.¹⁰⁰ Information should be provided from the entire territory of Albania. There should be a diversity of information and entertainment, as well as information for audiences abroad. Coverage of national and international news should be comprehensive and impartial,¹⁰¹ and RTSH should not broadcast political or religious propaganda.

In addition to serving the interests of the whole nation, RTSH is supposed to promote Albanian culture, language, and artistic and literary creativity. Unfortunately, KKRT's 2003 report confirmed that RTSH's educational, cultural and entertainment programming in 2003 was poor. In addition, the Steering Council's 2004 annual report did not note any improvement in this regard: "TVSH, which used to be a unique brand, is at the moment one of the brands that has most difficulties in competing in Albanian media market."¹⁰² This judgement was even more telling, given that TVSH has a substantial staff of 210 employees in Tirana,¹⁰³ which is high compared to the smaller number of people employed in the private sector. The KKRT report recommended that "RTSH must plan, produce, and broadcast more programmes of an educational, cultural, artistic, and entertaining nature, in order to

⁹⁷ Institute of Surveys and Opinions, *Media 2002*, pp. 192–205.

⁹⁸ Institute of Surveys and Opinions, *Media 2003*, Tirana, 2003, (hereafter, Institute of Surveys and Opinions, *Media 2003*), pp. 174–187.

⁹⁹ Law on Radio and Television, art. 66(1).

¹⁰⁰ Law on Radio and Television, art. 66.

¹⁰¹ Law on Radio and Television, art. 66.

¹⁰² RTSH, *Raporti Vjetor per Veprimtarine e RTSH, (Annual Report on the Activity of RTSH)*, RTSH Steering Council, 2004, p. 18.

¹⁰³ Interview with Gentian Grabovari, Head of Human Resources Department, TVSH, Tirana, 24 May 2005.

fill the vacuum it has.”¹⁰⁴ The KKRT made this recommendation to the RTSH’s Steering Council, but there was no public reaction when the KKRT presented its annual report to Parliament in March 2004. RTSH must certainly improve in these directions, because these types of programmes are the foundation of public service broadcasting, and without them, the public service mission will not be complete.

The Law on Radio and Television obliges both public and private broadcasters to carry certain broadcasts without payment. This rule applies to broadcasts on subjects of social benefit or supreme interest to the general public, as defined by the KKRT. The RTSH Statute provides that information produced and/or broadcast without payment should concern national health and public order, as well as national emergencies. In any event, the General Director’s approval is required.¹⁰⁵ The law also requires RTSH to broadcast, without charge, religious services or ceremonies held on official religious holidays and sessions of Parliament, as specified in legislation on elections and referenda.

The Electoral Code imposes other obligations on RTSH regarding programme content and unpaid broadcasts.¹⁰⁶ The Code distinguishes between “parliamentary” and “non-parliamentary” parties, which are separated by the threshold of 2.5 per cent of the popular vote. Among parliamentary parties, the Code distinguishes between those with more or less than 20 per cent of the seats in Parliament. Coverage of any party should be guided by its status according to these criteria. For example, the law stipulates the minimum time allowed for each category of party, and requires that extra time granted to any party should also be granted to the other parties in that category, with proportionally extra time for parties in other categories as well. The media are not allowed to transmit electoral propaganda during the 24 hours before polling day.

The Electoral Code obligations apply to public and private broadcasters alike. The public broadcaster has some additional responsibilities: the Electoral Code regulates the free time that RTSH grants to every political party participating in the elections.¹⁰⁷ This free time shall not be included in the news or information programmes, but should be transmitted in the time space between 6pm and 10pm. Moreover, RTSH shall produce and transmit candidates’ advertisements for free.

The Electoral Code also specifies the percentages of coverage for specific categories of programmes, including RTSH news programmes.¹⁰⁸ Significantly, it requires that time dedicated to broadcasting news about certain governmental activities, such as inaugurations of objects by a minister or his visit to a certain place, should be calculated according to which political party the Government member belongs. The

¹⁰⁴ KKRT, *2003 Annual Report*.

¹⁰⁵ RTSH Statute, art. 40.

¹⁰⁶ Law No. 9087 of 19 June 2003 on the Albanian Electoral Code (hereafter, Law on the Electoral Code).

¹⁰⁷ Law on the Electoral Code, art. 136.

¹⁰⁸ Law on the Electoral Code, art. 137.

time granted to the Central Election Committee (CEC) for free broadcasting on RTSH is also established by law.

In KKRT monitoring of the main newscasts on public television and the other two national television stations in February 2002, domestic policy covered about 24 per cent of the total time of the news bulletins.¹⁰⁹ The share of news items devoted to the President, the Prime Minister, the Government, and the ruling parties was almost 39 per cent, compared to 8 per cent devoted to the opposition.¹¹⁰ In the same research, the persons who were given more space in terms of soundbites were the President and the Prime Minister, both from the ruling party, with a combined total of 46 per cent of soundbite time.¹¹¹ A more recent monitoring did not show any significant change in this regard: the Prime Minister occupied 21 per cent of the main news edition in TVSH for most of 2004, and the Government received 29 per cent of the coverage, though the share of coverage for the opposition party was slightly bigger than that of the ruling party (not counting the Prime Minister). Similarly, the Government occupied 31 per cent of soundbites in the main news edition and the Prime Minister had 16 per cent of the total soundbite percentage.¹¹² These figures again indicate the difficulty faced by the public broadcaster in changing its practice, or shedding its image, as a body that is closely attached to the ruling party and the Government.

Along with the opposition, which has frequently condemned RTSH's management and leadership, the media community also views RTSH as an institution that is "public" only because it is so designated by law. Various critics, including representatives of the Steering Council, KKRT, and the Parliamentary Commission on the Means on Public Information], agree that RTSH does very little to fulfil its public mission.¹¹³ The poor programming of RTSH, which has led to its increasingly weak position compared to the private sector, sustains this view. Although there are no firm statistics to prove this, it seems clear that all the important political and social debates take place in the commercial national stations, TV Klan and TV Arberia, or Top Channel, TV Koha or some other private television stations. This is true of politically charged moments, such as elections,

¹⁰⁹ According to the Law on Radio and Television (art. 7) KKRT's competencies include the monitoring of news bulletins of the national television stations, and if deemed necessary, of local television stations as well. In addition, in the general elections of 2001, in cooperation with OSCE and the Central Election Committee, NCRT monitored television stations during the official one-month election campaign. Monitoring will also take place before the elections scheduled for 3 July 2005. Interview with Andrea Nathanaili, head of the Department of Programming, KKRT, Tirana, 23 May 2005.

¹¹⁰ Press release, KKRT Communications, 8 March 2002, available at http://www.kkrt.gov.al/informacion/njofitime/monitorimi_tv_kombetare.htm (accessed October 2004), (hereafter, KKRT Communication).

¹¹¹ KKRT Communication.

¹¹² KKRT, *2004 Annual Report*, Annex.

¹¹³ OSI roundtable comment.

as well as other times. When it comes to key debates on issues of public interest, the public broadcaster has ignored them for some time now.

Due to its public nature, RTSH still enjoys a legal monopoly of important sports and cultural events, such as the Olympic Games, musical contests and various programmes of this kind. However, these broadcasting rights of RTSH are at present seriously challenged by private media, and they are not always respected in the practice. In all other areas, RTSH has fallen far behind the private competition.

4.6 Editorial standards

As has already been stated, editorial independence is poor both in the public and private media. Both sectors lack a culture or tradition of self-regulation. From the fall of communism until the present day, RTSH has not succeeded in establishing and respecting precise editorial standards that guarantee satisfactory editorial independence. There are various reasons for this.

For one thing, there has been substantial pressure from the political establishment, in particular from the Government. Even though such pressure has been exercised continuously, it has been felt more during particular politically delicate moments, such as pre-election periods. As was mentioned above, legal provisions regulating media coverage of election campaigns are quite recent.

Meanwhile, RTSH itself has been unwilling and unable to withstand political pressure. Since the early 1990s, after the fall of communism, the main problem with successive general directors has not been a lack of professional skills or experience so much as their dependence on, or close affiliation with, the Government and the party in power. The election of the RTSH General Director, who has very substantial executive powers, is still considered a political affair by the media community. In this context, it is not surprising that the lack of meaningful reforms and successive Governments' continuing influence on public broadcasting have not created a favourable ground for establishing and respecting editorial standards that serve the public interest. This fact impacts negatively on the independence of the institution, as well as on its image in society.

Moreover, even though there have been some internal movements by staff seeking greater editorial independence, these have not been strong or well-organised enough to succeed. Like the public administration, RTSH has undergone radical changes of personnel whenever there was a change of governing parties. Any small protest by RTSH staff with regard to content and editorial standards was too fragmented to win sufficient attention from the political establishment, the media or the wider public. As result, RTSH staff themselves lack strong motivation to support reform. Because of low salaries, some staff are even employed part-time by commercial media outlets. In fact, since TVSH was the only television station in the country until 1995, its staff started the commercial stations that have emerged in recent years – they were the only ones who possessed the knowledge to work in the private industry when it began. Now,

almost a decade later, many young people have swarmed into the private television stations. Yet many on the RTSH staff, who make relatively low salaries, continue to hold two jobs. They consider that their employment at RTSH holds few advantages, except for security. This situation helps to explain why the RTSH staff shows little concern about editorial standards, or other kinds of reform.

5. REGULATION AND MANAGEMENT OF COMMERCIAL BROADCASTING

The commercial broadcasting sector in Albania is large and powerful. Nonetheless, it is difficult to provide a detailed picture of this sector, due to the lack of professional research and the lack of information volunteered by the commercial broadcasters themselves. There is a particular dearth of information about how broadcasters fund their operations in a small advertising market, and how their funding methods impact on their credibility and independence.

Many television stations emerged before the relevant legislation was adopted, and it took time before these stations came to respect the authority of the regulator. In some cases, this has not yet been achieved. As with the print sector, the number of outlets is constantly growing.

The lack of a journalists' trade union or effective professional associations, and the consequent lack of collective agreements, means that self-regulation is almost non-existent. Editorial independence in Albanian broadcasting is at the mercy of media owners. The implementation of the anti-piracy law¹¹⁴ led broadcasters to work harder to produce their own output. However, greater efforts are needed to generate material of genuine interest to the whole public, and especially in the area of investigative journalism, which is lacking in both print and electronic media. There are still obstacles in the way of developing a healthy commercial broadcasting environment, including lack of transparency in many aspects of commercial activity, a common tendency for economic and political interests to prevail over the principles of media freedom, and continuous indirect political pressure on both broadcasters and the regulatory authority.

5.1 The commercial broadcasting system

The commercial broadcasting system emerged in 1995 and has expanded steadily ever since. The first commercial television station started broadcasting in 1995, and the number of outlets boomed in the years that followed. The KKRT's roster of licensed broadcasters currently includes two national television stations, 62 local television

¹¹⁴ Law no. 9124/2003.

stations across the country, and 31 cable television stations.¹¹⁵ There are also two digital satellite and terrestrial operators that have started broadcasting without licenses, because the KKRT does not yet have the authority to license them. (See Section 7.5)

The commercial media landscape continues to be characterized by the chaotic creation of unregulated reality on the ground. Parliament only adopted legislation to regulate commercial electronic media in 1998; the first wave of licensing only took place in 2000; and the first and only study of the frequency spectrum, by KKRT, was not completed until late 2002. Thus, legislation has always pursued commercial broadcasting rather than preceding it, a situation that has made for a loose model of regulatory development.

Commercial broadcasters are regulated by the Law on Radio and Television and by KKRT decisions. Also, because all private electronic media are registered in the Commercial Register, they have to respect the relevant laws, such as the Law on Commercial Companies and the Law on the Protection of Competition.¹¹⁶

Regarding the internal regulation of commercial broadcasting companies, there are no rules imposed by law; this is for television management to decide. In point of fact, no electronic media outlets have adopted a code of ethics. When disputes arise, owners, managers, directors and, in some cases, editors-in-chief arbitrate in accordance with the situation and their interests.

The commercial sector is heavily concentrated in Tirana, which makes that city not only the political capital but the media capital as well. All the national newspapers are Tirana-based, as are the two national television stations, 16 local television stations, four cable television operators and two digital satellite and terrestrial operators. As a result, more of the total television advertising expenditure goes to capital-based television stations.

However, advertising budgets and the funding of commercial broadcasting systems in general is far from transparent, and this issue has become a focal point of public debate, especially in 2004. The KKRT's annual report for 2003 stated that all television stations had suffered losses in their annual balance, which brings up questions about the sources of funding for the electronic media, and consequently, their independence and economic viability.¹¹⁷

¹¹⁵ Interview with Argita Shkupi, 10 February 2005.

¹¹⁶ Law no. 9121 of 28 July 2003 on the Protection of Competition; Law no. 7638 of 4 November 1992 on Commercial Companies.

¹¹⁷ KKRT, *Annual report 2003*.

5.2 Services

Commercial television stations are required to broadcast, free of charge, messages and information of great interest to the public, in accordance with the relevant regulation drafted by the KKRT or at the request of local government bodies. This information usually involves short communications of particular interest to the public in the area concerned, especially in emergency situations, such as natural disasters, or on issues such as health and safety and public order.¹¹⁸ This is the only public service obligation for commercial broadcasters stated in the law. In general, there have been no problems with regard to the observation of this provision by the commercial broadcasters.

5.3 Commercial television ownership and cross ownership

In order to better understand the pattern of television ownership, a brief overview of the media landscape and its development may be useful. At the time of this writing, there were 257 media outlets in Albania, including 21 daily newspapers, 18 television stations and 17 radio stations broadcasting in the capital alone.¹¹⁹ Considering the size of the market, and the state of the economy in this country of some 3.5 million people,¹²⁰ these are extremely high numbers.

This boom in media occurred after 1991, when most of the then-existing media outlets were transformed or, as was more often the case, simply disappeared. Against all economic logic, the number of media outlets has continued to expand. For example, media experts and journalists have for long agreed that 14 dailies was too many for this market; nevertheless the number has now reached 21.

In this abundance of outlets, television stations loom as a large and important sector, given the increasing popularity of electronic versus print media. According to a survey published by the KKRT Council of Complaints, the number of hours Albanians spend watching television increased in 2003, compared to the previous year. About 67 per cent of the people surveyed watched at least three hours per day, and some even longer.¹²¹ This survey indicates the overwhelming presence of television in Albanian life. One of the attempts at audience and readership research has confirmed the importance people give to television: a total of 70 per cent of the people surveyed ranked television as the medium that conveys the most credible information, though only 55 per cent characterized this information as sufficiently credible, and 28 per cent considered information from television to have little credibility.¹²² In this context,

¹¹⁸ Law on Radio and Television, art. 39.

¹¹⁹ Albanian Media Institute, *Monitoring the Albanian Media Landscape*, Tirana, July 2003, (hereafter, Albanian Media Institute, *Monitoring the Albanian Media Landscape*); Interview with Argita Shkupi, 10 February 2005.

¹²⁰ INSTAT, *Population of Albania 2001*, p. 32.

¹²¹ KKRT Complaints Council, *Antena*, KKRT, Tirana, March 2004.

¹²² Institute of Surveys and Opinions, *Media 2002*.

knowing who owns what in the Albanian media can help shed more light on the development trends in the television sector.

The Law on Radio and Television contains certain restrictions on ownership. Political parties, religious institutions and economic organisations, such as banks and credit institutions, cannot hold broadcast licences. The restrictions are more demanding for national licences, in terms of the documentation required for licence applications, the initial capital required, the structure of the company, the programme requirements and the percentage of shares held by the company owners.

Applicants for local licences of markets with less than 200,000 inhabitants are not obliged to establish a company. Where the population covered will be larger than 200,000, the owner(s) of the radio or television station should be registered as a legal person. The law forbids the same subject from holding more than two local licences for the same local territory, whether for radio or television. The main motive for this limitation is to prevent local broadcasting monopolies, something that could easily emerge in Albania, given its concentration of population in parts of the country.¹²³ Nonetheless, the law allows the same person to hold both a radio and a television licence for the same territory.

There is no limitation on ownership stakes for a local broadcast licence: the owner can hold 100 per cent of the shares, whether they are a natural or a legal person. Nor are restrictions imposed on licensees with regard to nationality: non-citizens have equal opportunities to obtain a licence, under the same obligations.

In the case of a national licence, however, no legal or natural person can own more than 40 per cent of the broadcaster. This means that a national radio or television station must have at least three owners. Moreover, the owners of one national broadcaster are not allowed to own shares in another national broadcaster. The law also prohibits the owner of shares in a national broadcaster from owning shares in a local radio or television station. These regulations are meant to safeguard media pluralism and diversity, and to prevent national media concentration and monopolies. However, there have recently been cases of this provision being violated. One of the owners of a national television station participated in an auction for the rights to broadcast the matches of the national football team. He claimed to represent a local station, where he was (apparently illegally) a shareholder.¹²⁴

The lack of any detailed press legislation means there are no restrictions on cross-ownership of print and electronic outlets. Owners of electronic outlets are obliged by law to state their ownership when they apply for a broadcast licence and subsequently

¹²³ Instituti I Studimeve Publike dhe Ligjore (Institute of Public and Legal Studies), *Guide per Mediat Elektronike*, (*Guide to Electronic Media*), Tirana, January 2000, p. 27, (hereafter, IPLS, *Guide to Electronic Media*).

¹²⁴ "Skandal me tenderin e Kombetares ne FSHF," in *Koha Jone* newspaper, 22 June 2004, p. 3.

to register any ownership changes in the commercial register. They must also report ownership changes to the KKRT – and receive KKRT approval.¹²⁵

Apart from the limit on ownership stakes, the law obliges national broadcast licensees to register their business as a joint stock company, where the shares must be nominal.¹²⁶ The idea behind this requirement is that joint stock companies are more accountable and transparent. The Stakeholders' General Assembly of the company appoints two thirds of the Supervisory Committee, while the employees appoint one third.¹²⁷ The Supervisory Committee, in turn, appoints the directors of the company.¹²⁸ By commercial law, every joint stock company is required to have a Supervisory Committee, which appoints the Board of Directors of the company and which is responsible for controlling the company's activity.¹²⁹ However, there has so far been no evidence that these controls operate in Albanian media companies. The Supervisory Committees appear to be ghost mechanisms.¹³⁰ Neither the KKRT nor the Commercial Court Register monitors the internal structure of media companies, apart from the information provided in the initial documents required to be submitted, since the legal framework does not require these bodies to constantly control the structure of media companies. In this context, the media owners are able to have their say, undisturbed by the potential system of checks that the Supervisory Committee could provide. There has not even been one public case when the decision of the owner(s) was contested or even discussed by the Supervisory Committee.

The overwhelming majority of the owners of television stations have no previous background in the media, and they generally are involved in other businesses. It would be hard to find a significant shareholder in any media company who has dropped his or her other business interests. Indeed, they often expand those other businesses.¹³¹

It is very difficult to identify owners of the main media groups who have concentrated their capital into one kind of medium alone. Cross ownership is common among the main media groups, all of which own at least one publication as well as a radio and/or

¹²⁵ Law No. 7667 of 28 January 1993 on the Commercial Register, art. 33.

¹²⁶ Law on Radio and Television, art. 20.

¹²⁷ The Stakeholders' General Assembly, comprising all the owners, is the key decision-making organ of a joint stock company, and its existence is required by the Law on Commercial Companies, quoted in: IPLS, *Guide to Electronic Media*, p. 13.

¹²⁸ IPLS, *Guide to Electronic Media*, p. 13.

¹²⁹ IPLS, *Guide to Electronic Media*, p. 27.

¹³⁰ All the data on ownership shares of media outlets and companies is taken from Ilda Londo, Report on Albania, in Brankica Petkovic (ed.), *Media ownership and its impact on media independence and pluralism*, Peace Institute and SEENPM, Ljubljana, June 2004, available at http://www.mirovni-institut.si/media_ownership/albania.htm (hereafter, PI/SEENPM, *Media ownership – Albania*), p. 52.

¹³¹ PI/SEENPM, *Media ownership – Albania*, p. 58.

television station.¹³² For example, the Klan group owns a national television station, holds shares in two daily newspapers and a weekly magazine, and used to own a local radio station. The Spekter group owns the largest daily newspaper, an economics daily and a sports daily, a weekly magazine, a national radio station, a television station, an Internet provider and an advertising agency. The Koha group owns a general daily, a sports daily and a radio station, and it used to own a television station and a cultural magazine. The fourth major group, Edisud, is wholly foreign-owned and has several media outlets in Albania.

Within the broad picture of the electronic media, there is not much significant foreign ownership. Despite the totally unrestricted access, the media market has not proven attractive to outside investors. The most important foreign media presence is the Edisud joint stock company, which owns a daily newspaper title that was first published before the Second World War and was successfully relaunched in the early 1990s. Edisud then started a radio station, a television news channel, which was the first of its kind and set a trend for other stations, and an online news agency. Although the company is Italian, the staff is all Albanian, except for the general administrator.

Other foreign actors in the Albanian media are also Italian. Telenorba Shqiptare, a local television station, is 55 per cent Italian-owned. Alba TV was the other local television station in Italian ownership, but the station stopped broadcasting and did not pay its fees, so the KKRT withdrew its licence in 2003. Another important foreign owner, not only in the media but also in other businesses in Albania, is Julien Roche, a French national who owns 33 per cent of the national broadcaster, TV Klan, and used to own Radio Klan, which shut down. Roche is equal partner with an Albanian businessman in two companies, one of which owns 70 per cent of the shares in the *Albanian Daily News*, a daily English-language newspaper. He is a partner in another company, which owns 51 per cent of the publisher of *Korrieri*, a successful daily newspaper, and *Klan*, probably the best-known weekly magazine. Although foreign owners have generally been successful and expanded their media businesses in Albania, the prospects for further foreign investment in the near future are not very bright.

5.4 Funding

While television's dominance over other media, and its crucial impact on public opinion, are generally recognised, opportunities to translate this importance into real audience figures have been few. As mentioned in section 2.3, audience research is in its infancy. The main audience surveys to date – *Media Readership and Viewership* in 2001, *Media*

¹³² All the following data on ownership stakes in media outlets are quoted from: PI/SEENPM, *Media ownership – Albania*. The data derives from official sources: the Commercial Court Register and KKRT.

2002 and *Media 2003*¹³³ – were limited in time and area.¹³⁴ These surveys were initiated by IREX and implemented by the Institute of Surveys and Opinions, an independent NGO that carries out statistical research. However, the findings were contested by the television industry. For example, according to the 2002 survey the top three televisions were TV Klan, TVSH and Top Channel,¹³⁵ results which were continually mentioned by TV Klan in its newscasts and strongly disputed by Top Channel. In the 2003 survey, the authors decided not to publish an overall rating.

Fierce rivalry among the main television stations has prevented them from forming a joint industrial committee that would serve them impartially by testing the market and popularity of the different stations.¹³⁶ Consequently, the main stations can each claim to be the best. According to IREX, “The concept of uniting for the common good has yet to take hold with the media owners, who appear to fear losing power and influence as individuals within the industry.”¹³⁷ Every attempt at research or innovative programming or operation is frowned upon and mocked by rival stations. The latest case of this phenomenon took place with the emergence of two competing digital television stations, both of which also have shares in important analogue terrestrial stations. The newscasts of these terrestrial stations constantly seek to denigrate the rival digital operation and elevate the performance of their own digital operator. This is only the latest example of friction between television stations, friction that often includes unethical statements bordering on slander. Perhaps the best known example is the continuous sniping in 2004 between TV Klan in its news bulletins and Top Channel in its news bulletins and its popular “Fiks fare” satirical programme. It seems clear that the media climate in the country is far from ripe for media owners or outlets to unite for a common purpose.

The lack of reliable audience data has led television stations to measure their success by “gut feelings” and momentary surges in their reputations. This situation has encouraged chaos in the advertising market. Meanwhile, the lack of detailed legal provisions regarding the allocation of state advertising makes it easier for the Government to trade purchases of advertising for favourable coverage. This phenomenon threatened the development of print media in the past, and it may now be doing the same to television.

¹³³ Institute of Surveys and Opinions, *Lexueshmeria dhe Shikueshmeria e Mediave, (Media Readership and Viewership)*, 2001, Tirana; Institute of Surveys and Opinions, *Media 2002*; Institute of Surveys and Opinions, *Media 2003*.

¹³⁴ These surveys covered the most important districts in the country and employed a diary-based methodology. The randomly selected sample had to keep entries in the diary with regard to their television viewing habits (and for the first year of their press reading, as well) for a month or for a week, depending on the year. These entries were then analyzed to reach conclusions on the media ratings.

¹³⁵ Institute of Surveys and Opinions, *Media 2002*, p. 54.

¹³⁶ A joint industrial committee is a body created by the industry itself, in which the main players agree to conduct or commission research and accept the findings.

¹³⁷ IREX, *MSI – Albania 2003*, p. 9.

The difference, however, is that while the critical problems created by Government-controlled advertising in print media became the focus of concern that led to research, the equivalent problems affecting television seem to be accepted. There has not yet been any research into Government advertising in exchange for favourable coverage, hence there are still no data on how pervasive the practice is.

For example, one of the most visible State advertising campaigns is that of AlbTelekom, the State-owned telecommunications company, which paid for an advertising campaign that did not announce any new services or new information. It seemed strange that AlbTelekom would pay for such a campaign, because it enjoys a complete monopoly on the installation and maintenance of fixed telephone lines. Yet this apparently unnecessary use of State advertising funds was not an isolated incident. As for 2003, the IREX report on media sustainability concluded:

The government has the tendency to advertise its enterprises, such as AlbTelekom, the power company, and the state insurance company, through the media outlets that support it. Profits from these advertisements are substantial and viewed as rewards for pro-government coverage. Conversely, the stations and newspapers that support the opposition are punished by being ignored by the state advertisers.¹³⁸

Any estimates of the size of advertising markets are necessarily vague, as market research and analysis is practically unknown in all commercial sectors. According to one effort to measure the market, made by the Albanian Center for Media Monitoring, the total advertising market in Albania in 2003 was worth only €12 million.¹³⁹

The Center stated that television received the biggest portion of this sum, €6.57 million or 54 per cent of the total. It found that newspapers received 20 per cent of the total advertising revenue and outdoor advertising received 16 per cent, while the percentages for radio and magazines were insignificant.¹⁴⁰ Still, it must be noted that these figures are unofficial and may not be reliable.

Although the KKRT is uniquely placed to play a role in monitoring advertising expenditure, it has chosen not to do so. Hopefully, this may change now that the 2005 KKRT Action Plan includes carrying out a detailed monitoring of advertisement as the main source of revenue.¹⁴¹ Studies of this kind are costly and rarely conducted. However, the KKRT's 2003 annual report disclosed an alarming figure for the revenue of electronic media outlets: it found that 46 per cent of the total annual revenue

¹³⁸ IREX, *MSI – Albania 2003*, p. 9.

¹³⁹ Albanian Center for Media Monitoring, *Albanian Media Monitor*, 2004/1, July 2004, p. 52. The television advertising market in Bosnia and Herzegovina (estimated population: 3.7 million) was worth an estimated €50 million in 2004; in Macedonia (with 2 million inhabitants), the public broadcaster MRT took around €4 million from advertising in 2003 and has been accused by the commercial players of monopolising the market.

¹⁴⁰ Albanian Center for Media Monitoring, *Albanian Media Monitor*, 2004/1, July 2004, p. 52.

¹⁴¹ KKRT, *Action Plan 2005*, p. 11, quoted in KKRT, *2004 Annual Report*.

derived from advertising, 5 per cent came from donations and sponsorship, while 49 per cent came from “other sources”.¹⁴²

Table 3. Funding pattern for commercial television stations (2003)

Source	Share of total budget (per cent)
Advertising revenue	46
Sponsorship	5
Other sources	49

Source: KKRT¹⁴³

Over the past year, the vague category of “other sources” has featured in debates about media independence and transparency, with the Government, media outlets and media-owners all accusing each other of wrongdoing. Since there is no legal requirement for owners to declare their sources of income, there is no transparency on this extremely important issue. The advertising market is too small to support the almost deformed media market that exists in Albania. In most cases, “other sources” of income means the numerous other businesses of most media owners, including construction, which is the most lucrative business in Albania today, or import-export trading, advertising or Internet services.

Yet there is a more troubling possible “other source” of income for electronic media. There have been allegations that media coverage is used to win favours from politicians in other businesses. In other words, that politicians extend patronage to media owners’ other businesses in exchange for positive coverage. Alba Maltezi, formerly vice-director of *Gazeta Shqiptare* and presently director at TV News 24, has stated that: “The most serious threat to freedom of the press today is its economic dependence, which leads to secret agreements between businesses, politics, and the press: these agreements have nothing in common with free and accurate information.”¹⁴⁴ Alternatively, politicians may look to punish the businesses of media owners who do not give favourable coverage.

An apparent example of such punishment occurred in the Parliament in July 2004, when Prime Minister Fatos Nano accused some important media proprietors of tax evasion, denying employment contracts to their staff and having non-transparent sources of income – not only in their media outlets, but also in their other business activities. Specifically, Nano accused several powerful media groups, including the Koha Group, the 2K Group and Ada Construction, the main shareholders in the Klan

¹⁴² KKRT, *Annual Report 2003*.

¹⁴³ KKRT, *Annual Report 2003*.

¹⁴⁴ PI/SEENPM, *Media ownership – Albania*, p. 57.

group, of having violated the laws on buildings.¹⁴⁵ The charges included allegations of fraud in the payment of social security. For example, national TV Klan had paid social security for 21 persons, receiving the national monthly minimum wage of ALL 10,184 (€80); national TV Arberia had declared 30 employees, with a wage of ALL 13,000 (€102); Top Channel had declared 90 employees with an average salary of ALL 10,000 (€78); and so on. Nano alleged that the figures declared were extremely low and did not correspond to the real salaries paid to media employees. When Nano made these allegations, the editorial policies of these three media groups were at odds with the Prime Minister and the Government, which is not in itself an unusual situation in Albania. However, it does raise the questions of why the Prime Minister chose to single out these companies for criticism, and why there is not systematic independent monitoring of such issues.

Although transparency of media ownership and funding are vital to the development of free and independent media, the owners themselves, the media community, and the Government have not yet discovered a genuine interest in *pursuing* and *achieving* transparency. Instead, independence and transparency are symbols to be displayed when the situation becomes critical for any of the sides involved, and once the storm calms down, the debate moves on to another topic.

In this context, it is extremely difficult to get a clear picture of the advertising business and the market shares of each television station. Naturally, it would also be difficult to make any detailed conclusions about a comparative analysis of the advertising income for the public broadcaster and that of commercial broadcasters.

What can be clearly stated, is that TVSH carries less advertising than most commercial stations. According to the KKRT monitoring in December 2003, advertising occupied only 5.5 per cent of broadcasting time on TVSH.¹⁴⁶ Among the commercial stations that were monitored, only a news channel was lagging behind TVSH.¹⁴⁷ This does not mean that TVSH's advertising revenue is necessarily much smaller than the commercial television stations, as the amount of revenue also depends on the advertising fees and the advertisers.

Another indicator of TVSH's relative advertising draw is Government advertising. According to figures presented to Parliament by the Prime Minister, the State-owned power utility bought €85,000 of advertising time from the public broadcaster over the past three years, compared to €139,000 and €93,000 from the two national private

¹⁴⁵ Speech of Prime Minister Fatos Nano to Parliament on 5 July 2004, as reported in *Soi*, 6 July 2004.

¹⁴⁶ According to Alfred Dalipi, RTSH Deputy General Director, advertisement revenue has not exceeded 10 per cent of the total revenue of RTSH in the last seven years. OSI roundtable comment.

¹⁴⁷ KKRT, *Monitoring of Televisions*.

broadcasters. The proportions were the same for the advertising budgets of the other state enterprises – mainly state utilities.¹⁴⁸

Recent events have shown that the commercial stations are increasingly competitive with the public broadcaster, and not only in attracting advertisers. A controversial tender took place in June 2004 to determine the right to broadcast the national football team's matches during the 2004–2005 season, despite the fact that the law¹⁴⁹ states that the public broadcaster has priority in broadcasting the qualifying rounds of international competitions involving the national team. Although this tender was eventually cancelled, due to irregular procedure, the fact that it took place at all indicates the commercial stations' determination to win rights that belong by law to the public station – and their increasingly competitive edge over the public broadcaster. In fact, SAT+, the digital satellite operator, has now acquired the rights to broadcast the soccer matches of the national team when it plays abroad.

The absence of detailed advertising data means it is also difficult to define the general trends of competition among private broadcasters. Furthermore, because there is no such data, marketing within the industry is very poorly developed. Most television stations do not have a marketing department, and marketing departments with only one employee are not infrequent. The vague knowledge about viewers also leads to advertising fees that are not tailored to suit the audiences of particular programmes. For example, out of 11 television stations, all but one of them based in Tirana, only Top Channel and the national station of TV Klan differentiated their advertising fees according to the show in which the advertisement would be broadcast. These two stations charged higher prices for advertisements during their most successful programmes or their most popular news bulletin. The other stations, however, set fees based on no more than three or four time slots, without regard for the programme or the time of day. Some stations did not even differentiate by time slots, but only set fees based on the number of times the advertisement would be broadcast.¹⁵⁰

Even apart from the rather primitive television marketing sector, advertising agencies in Albania are not thriving. There are a few small agencies, which only act as mediators, buying blocks of time from television stations and selling them to different clients. According to IREX's media sustainability index, these agencies are insignificant. "Every promotion is produced for specific business or political interests without considering viewership or readership. For this reason, the advertising market in Albania is completely absent."¹⁵¹

¹⁴⁸ Speech of Prime Minister Fatos Nano to Parliament on 5 July 2004, as reported in *Sot*, 6 July 2004.

¹⁴⁹ Law on Radio and Television, art. 77.

¹⁵⁰ "Tarifat e Reklamave te Stacioneve Televizive nga janari 2004", ("Advertising Fees of Television Stations as of January 2004"), in *Monitor*, July 2004.

¹⁵¹ IREX, *MSI – Albania 2003*, p. 8.

5.5 Programme framework

Several provisions of the Law on Radio and Television deal with programming content, and most of these provisions are applicable to both public and private broadcasters. Editorial independence is guaranteed in Article 5, while Article 35 (2) prohibits censorship. Article 4 states that radio and television activity should respect the right to information and other human rights and freedoms – including citizens’ political convictions and religious faith, personality, dignity and privacy – in an unbiased manner. Radio and television activity should conform with the constitutional order, sovereignty and national integrity. This obligation is restated in Article 36 of the law:

Public and private radio and television programmes shall respect personal dignity and fundamental human rights, the impartiality, thoroughness and pluralism of information, the rights of children and adolescents, public order, and national security, the Albanian language and culture, the constitutional and human rights of citizens, national minorities, in compliance with the international conventions signed by the Republic of Albania, as well as Albanian religious diversity.

Article 41 seeks to uphold the independence and accuracy of news output by requesting broadcasters to present facts and events in a fair and unbiased manner that encourages the free formation of opinions. This article prohibits broadcasters from bias in favour of any political party or organisation, economic group, religious association or community. Article 45 holds the journalist and the editor responsible for damages resulting from the broadcast of defamatory information.

The provisions on sponsorship are also important for editorial independence. Article 59 defines sponsorship as “the direct or indirect financial contribution by a legal or natural person to a radio and television programme, with a view to promoting the name, manufacturing company, or image of that person”. In no circumstances should sponsors interfere with the content and timing of the sponsored programme.¹⁵² News and information output may not be sponsored. When a programme is sponsored, this information must be broadcast as well. Moreover, natural and legal persons whose main activity consists of the production, sale or offering of goods or services that are prohibited by law may not act as sponsors.

Unfortunately, these legal safeguards are not always respected. It is extremely difficult to find an editor-in-chief or journalist who questions a proprietor’s editorial policy. This is probably because the lack of employment contracts, or the existence of improper contracts, encourages labour instability. Although there are no figures produced by regular research in this area, according to one report, about 90 per cent of journalists work without contracts: “Many journalists come to work wondering if they

¹⁵² Law on Radio and Television, art. 61.

are going to be fired.”¹⁵³ In this situation it is hardly surprising that self-censorship is widespread and the exercise of editorial independence is rather weak.

The only changes in this regard might come as a result of State pressure to pay social security and other employment taxes. Such pressure could oblige media owners to draft and sign employment contracts. While these contracts might not afford substantial protection to employees, they will at least provide a legal basis, which may be invoked before a court of law. It remains to be seen whether the owners will take such a step and whether the journalists and other media workers will take breaches of contract to court. Then it will be up to the courts to hold the media legally accountable, thereby preventing prospective cases of abuse.

Regarding the list of banned programmes, the Law on Radio and Television summarises them in Article 39. They include programmes that incite violence, national, religious and racial hatred, anti-constitutional actions, violation of Albania's territorial integrity, or discrimination on grounds of political allegiance or religion. Also banned is the broadcast of information constituting State secrets, “encoded messages” against the fundamental interests of the state, pornographic material and information violating citizens' rights to privacy.

Albanian is the mandatory language of all programmes, except for musical works with scripts in foreign languages, foreign language teaching programmes, programmes targeting national minorities, and local radio and television stations licensed to broadcast in minority languages.

The law does not stipulate quotas for languages and minority group representation. The occasional programmes for national minorities that are broadcast by RTSH are arbitrary in their timing and editorial approach. The main reason for this may be the fact that Albania is a rather homogeneous country in terms of national minorities. However, Radio Prespa was established in 2003 in the area bordering Macedonia; it broadcasts in the Macedonian language. Also, radio stations in southern Albania broadcast daily in Greek. Print outlets have proven more attractive to minorities, as there is a greater number of print outlets in Greek compared to electronic media broadcasting in this language, possibly for financial reasons. However, all these media outlets are individual initiatives. The law does not impose any requirements in this regard and there are no Government subsidies for minority media.

The only content quota imposed by law on local licensees states that at least 15 per cent of their programming each week should comprise non-commercial information and programmes related to the local situation. Amendments to the law in 2003 have increased the obligations on national licensees regarding the programming structure: they should devote no less than 15 per cent of broadcasting time to self-produced programmes and no less than 30 per cent to programmes produced in Albania. Furthermore, both national and local television stations should respect the following in

¹⁵³ IREX, *MSI – Albania 2003*, p. 9.

their programmes: the Constitution of Albania; impartiality, comprehensiveness and plurality of information; personal dignity and fundamental rights; especially children's and teenagers' rights; and private life the Albanian language and culture; citizens' constitutional and human rights; religious diversity; confidentiality of information sources; and the right to reply.¹⁵⁴

The Complaints Council and KKRT monitor the implementation of these requirements in accordance with the law, but no sanctions have been applied in cases of proven violations. The Complaints Council issues a publication that discusses, *inter alia*, practical cases in the light of these norms and how they are respected by the broadcasters. However, only a few persons do show interest in acquiring this publication. Apparently, the easiest way to judge whether they are being fulfilled is to watch television yourself.

According to KKRT's one-time, one-month monitoring exercise, the main television stations all respected the 15 per cent quota for self-produced programmes. In fact, this figure did not drop below 40 per cent for any station.¹⁵⁵ However, this survey was carried out right after the implementation of the anti-piracy provisions of the latest amendment to the Law on Radio and Television,¹⁵⁶ when the stations were forced to broadcast their own productions. There is no reason to suppose that the quota had been respected in the previous period.

The anti-piracy provisions proved to be a watershed for television in Albania. While lip-service had been paid to copyright issues in the past, all the private television stations had filled their schedules with pirated programmes, including Hollywood movies that were still being shown in cinemas across the world. This situation ended abruptly with the October 2003 implementation of the anti-piracy provisions, which were respected by most television stations immediately, with the remainder falling into line after the KKRT imposed some fines. This dramatic change forced many stations to broadcast only music, while showing a test-card of their logo, or to display the simple message that "We will restart soon". Nevertheless, stations tried to compensate by producing more of their own programmes. One month after the law came into force, the share of self-produced programmes did not drop below 45 per cent on any of the main television stations, and in some cases, it rose above 80 per cent of the total broadcasting time.

Due to the lack of measurement of audience preferences, it is hard to tell whether people prefer entertainment programmes rather than more serious genres. However, judging by the general output of the most important television stations, one could conclude that news and debates on relevant, often political, issues have an indisputable weight in the programme schedule. For example, apart from news bulletins, some of

¹⁵⁴ Decision No. 10 of the KKRT of 15 May 2000 on Criteria on Licensing Private Operators for FM Radio and Television Broadcasting, amended by Decision no. 52 of the KKRT of 16 July 2001.

¹⁵⁵ KKRT Monitoring of Television Programmes, December 2003.

¹⁵⁶ Law no. 9124/2003.

the most popular programmes are the weekly “Opinion” and “Shqip”, featuring interviews or debates on a topical issue. Another surprisingly popular programme is “Fiks fare”, a daily satirical magazine that contains significant elements of investigative journalism. The show apparently owes its popularity to its coverage of important problems in everyday life, such as corruption and Government neglect. However, the show’s use of candid cameras or alleged violations of privacy has raised questions and criticism. Meanwhile, entertainment programmes and game shows are also on the rise. More documentaries and educational programmes might raise the value of the overall output, but, at the moment, these genres have very limited exposure. Recently, however, the television stations have started to focus on programmes of a more social nature, attempting to cover more everyday life and human interest stories.

With regard to advertising, legal provisions are much more concrete and detailed, and they apply to the public and private broadcasters alike. Article 49 of the Law on Radio and Television defines advertising as, “any message intended to promote selling and buying of goods or services, by presenting an idea to attain the effects desired by the advertiser, who has been allocated the respective broadcast time in return for payment or another form of compensation”. Television stations should not allot more than 15 per cent of their daily transmission time, or more than 12 minutes per hour, to advertising. Advertisements should be broadcast between programmes, except for the cases defined in Article 52. The law regulates the length of advertising breaks, which varies, depending on the genre and length of the programme.

Regarding content, Article 50 of the law stipulates that advertisements should:

be presented in Albanian or subtitled in Albanian; be fair and not detrimental to other subjects; not be deceptive and never prejudice the consumers’ interests; not be presented by professional announcers, or programme announcers employed at a public broadcasting station.

Subliminal commercials are prohibited. In addition to these general requirements, the Law on Radio and Television bans:

1. commercials that influence the content of programmes;
2. commercials that incite pornography and violence;
3. commercials for tobacco products;
4. commercials for armaments and military equipment;
5. indirect commercials;
6. religious or atheistic commercials;
7. commercials for food products that are not approved by the competent bodies, under Article 19 of Law No. 7941 (31 May 1995), “On food products”;
8. commercials for political parties or associations, with the exception of cases provided by law;
9. other commercials in contravention with applicable laws.

Also banned are advertisements for medical drugs not produced and approved under the laws in force or advertisements that do not reflect the effects of the advertised

medicine as established by the competent authorities. Advertising of alcoholic beverages is also restricted, while the Law on Competition prohibits comparative advertisements when the comparison cannot be verified objectively.¹⁵⁷

With regard to the programmes and information that deal with the European Union (EU) and Europe in general, even though Albania is not bound by the EU directives, such coverage has increased on some television stations, especially since the accession of new EU members in May 2004.

5.6 Editorial standards

A general Code of Ethics was drafted in 1998, but it is rarely applied, because interests, rather than ethics, determine journalists' and editors' decisions. There are no internal codes of ethics in the television stations, except for the general rules imposed by editors-in-chief. The frequent job switches by editors-in-chief mean that self-regulation rarely has a chance to take root. More importantly, the editor-in-chief's actions are also subject to approval by the owner or manager. This is not a written norm, but it is common practice.

As has been noted, it is extremely difficult to find an owner of a significant media outlet in Albania who is not closely related to some other business, to politics, or in some cases, to both. This interdependence, or as the Organization for Security and Cooperation in Europe (OSCE) put it, "triangular relationship of mutually reinforcing benefits",¹⁵⁸ has a profound impact on media freedom and on the possibility of editorial independence in the commercial media system. A media analyst and member of the Parliamentary Commission described the situation as follows:

We have freedom of press, but I'm afraid I cannot say we have a free press. Nowadays, the press is experiencing, first of all, what can be called economic censorship, and, precisely for this reason, it often happens that a large part of the press is forced to, or tends to, become an extension of certain economic and political circles, which damages the essence of what the free press is.¹⁵⁹

With such an abundance of media available to Albanians, one can certainly rejoice over the complete spectrum of opinion, from left to right, and the ample opportunity for expression. However, given the extremely small size of the market, it is impossible not to wonder whether all these media are actually watched, heard or read. This brings up questions about why such media exist, and what their reasons for existing mean for their editorial policy. As Mero Baze, a publisher and Chairman of the Free Media Albanian Forum, a journalists' association dealing with freedom of the press, said:

¹⁵⁷ Law on the Protection of Competition.

¹⁵⁸ Ambassador Osmo Lipponen, Head of OSCE Presence in Albania, Report to the Permanent Council, 30 September 2004, available on the OSCE website at http://www.osce.org/documents/pia/2004/09/3690_en.pdf (accessed October 2004), p. 12.

¹⁵⁹ Interview with Prec Zogaj, in *Indexmedia*, no.1, 2002, p. 39.

The Albanian press will start to enjoy its freedom when the first paper that is not read and the first television station that is not watched, but is only paid to exist, go out of business. We must strive to achieve that day.”¹⁶⁰

6. EUROPEAN REGULATION

Albania has partly incorporated European media law and standards. In 1999, Albania signed and ratified the Council of Europe Convention on Transfrontier Television and its Additional Protocol.¹⁶¹ The KKRT refers to the Convention in some of its decisions,¹⁶² and many provisions of the Law on Radio and Television derive from this agreement.¹⁶³

Although, as a non-member, Albania is not legally bound by EU media law,¹⁶⁴ some aspects were taken into consideration when Parliament drafted the country’s Law on Radio and Television. This is the case with regard to the provisions on sponsorship, though Albanian law differs from EU law in that it does not prohibit sponsorship by enterprises engaged in television broadcasting activities. Furthermore, Albanian law does not require broadcasters to devote the majority of airtime to programmes originating within the EU, and there are inconsistencies between EU and Albanian copyright legislation.

Implementation of those provisions that do conform to EU media law presents a problem in itself. As with many other economic sectors in Albania, the media industry lacks transparency. The provisions guaranteeing transparency of ownership remain difficult to implement. Commercial law does not fully comply with EU principles, and these differences have an impact on the media industry as well. In addition, the allocation of State advertising does not always occur according to the rules of free market and fair competition. There is no continuous research into audiences or newspaper distribution, and in many cases, advertisements are allocated to an outlet

¹⁶⁰ Mero Baze, “The press after 1997, the only pyramid still in place”, in *Indexmedia*, no.1, 2002, p. 32.

¹⁶¹ Law No 8525 of 9 September 1999 on the Ratification of the European Convention on Transfrontier Television, *Official Gazette*, October 1999.

¹⁶² See for example: Decision No. 175 of the KKRT of 18 September 2003 on the Rebroadcasting of Terrestrial Radio-television Programmes on Satellite and vice versa.

¹⁶³ Law No. 8410 of 30 September 1998 on Public and Private Radio and Television in the Republic of Albania, *Official Gazette* 20 October 1998.

¹⁶⁴ With particular reference to the “Television without Frontiers Directive”: European Council Directive of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, 89/552/EEC, OJ L 298 of 17 October 1989, as amended by European Parliament Directive of June 1997, 97/36/EC, OJ L 202 60 of 30 July 1997, consolidated text available on the European Commission website at http://europa.eu.int/eurlex/en/consleg/pdf/1989/en_1989L0552_do_001.pdf (accessed 15 March 2005).

that favours the Government or that protects the personal interests of the individual in charge of the allocation.

The most flagrant case of State advertising allocation happened in the print media, and it prompted research by the international organisation Human Rights Watch. This research found that, in the absence of a detailed legal framework to define the manner of allocating State advertising, decisions about where to advertise were often used to reward newspapers with a pro-government editorial policy.¹⁶⁵ Although this research dealt exclusively with print media, the transparency of the allocation of advertising is not very different in the electronic media. This situation has to be corrected in order to approach EU standards of regulation.

7. THE IMPACT OF NEW TECHNOLOGIES AND SERVICES

The regulation of new technologies and services has followed the pattern of regulation for traditional broadcasting in Albania: the new technologies started operating before any legislative efforts had been made to control them. It is still too early to measure the impact of these technologies and services, as research and data are almost entirely lacking.

Governmental, State and non-governmental organisations now enjoy limited Internet access, but such access started spreading among the wider population only in the last couple of years, and then only in some urban areas. Cable television became more popular after 2003: from six cable television stations operating in 2002,¹⁶⁶ the number reached 31 by January 2005.¹⁶⁷ This phenomenon appeared especially in 2004, when the anti-piracy law drastically affected the foreign programming shown on Albanian television.¹⁶⁸ Satellite television has been present in Albania since the early 1990s, but – as with the more recent spread of cable – it reflected the craving for foreign information and entertainment programmes, because no foreign channels were allowed to broadcast in Albania under communism. Albanian-owned satellite television did not start operating until 2003. The boom sector among the new technologies has been mobile phone services, but this is partially a reflection of the less-than-satisfactory land-line service offered by AlbTelekom.

¹⁶⁵ Human Rights Watch, *The Cost of Speech: Violations of Media Freedom in Albania*, Vol. 14, No. 5, June 2002, available on the HRW website at www.hrw.org (accessed 15 March 2004).

¹⁶⁶ Albanian Media Institute, *Monitoring the Albanian Media Landscape*, p. 26.

¹⁶⁷ Interview with Argita Shkupi, 10 February 2005.

¹⁶⁸ Law no. 9124/2003.

7.1 New media

Public policy debate on the new media began only recently, and policy objectives have not yet been defined. At the time of this writing, the only legal provisions for new media are those that address cable television and satellite broadcasting in the Law on Radio and Television. Under these provisions, cable television channels may:

- rebroadcast programmes from terrestrial and satellite stations;
- rebroadcast programmes for closed television networks;¹⁶⁹
- rebroadcast recorded audiovisual products;
- broadcast self-produced programmes.¹⁷⁰

The licensing procedure for cable is the same as for the other television stations, while the use of cable lines is provided by the public service operators. According to the law: “Physical or legal persons that have been licensed for cable radio-television broadcasting must use the cable lines of public service operators. When no lines are available for this purpose, the installation and use of cable networks for radio-television broadcasting is conducted with special permission from the competent bodies.”¹⁷¹ In this case the competent bodies are the KKRT in cooperation with the ERT.

Satellite broadcasting is regulated by all the legal provisions pertaining to terrestrial television, including European agreements. The law states that: “Programme services for the public aired by satellite shall comply with this law in the same way and to the same extent as services for national programmes broadcast by terrestrial means. These services are covered by the European Convention on Transfrontier Television.”¹⁷²

7.2 Market conditions

By January 2005, the KKRT had licensed 31 cable television stations. Interestingly, only four of these are located in the capital. Although Tirana reigns supreme in print media and terrestrial radio and television, cable television is less popular in the capital. Cable channels started broadcasting relatively late, and they remained marginal until the passage of the anti-piracy law.¹⁷³ According to the KKRT’s 2003 annual report, some cable stations started broadcasting without permission, and there are clashes over broadcasting rights between cable and terrestrial stations.¹⁷⁴

¹⁶⁹ This refers to improvised networks of television stations that agree to pool their programming.

¹⁷⁰ Law on Radio and Television, art 122.

¹⁷¹ Law on Radio and Television, art. 125.

¹⁷² Law on Radio and Television, art. 136.

¹⁷³ Law no. 9124/2003.

¹⁷⁴ KKRT, *2003 Annual Report*.

Cable television operators now cover almost all urban areas in the country.¹⁷⁵ These operators have proven increasingly attractive to viewers, because they rebroadcast from several popular foreign channels. These channels feature interesting and entertaining programmes for viewers, in exchange for a reasonable monthly subscription price, which is significantly lower than digital operators. The subscription rate ranges from ALL 500 to 800 (€4 to €6.3) per month, along with an initial installment fee, which ranges from ALL 4,000 to 8,000 (€33 to €66).¹⁷⁶

In late September 2004, the Chairman of the Association of Electronic Media, Aleksander Frangaj, who is also co-owner of TV Klan and has shares in the digital satellite operator, protested that most cable operators do not have broadcasting rights and are therefore competing unfairly against legally licensed stations.¹⁷⁷ However, the KKRT has said that the cable television operators have all presented regular contracts for their broadcasting rights so far, and it maintains that, if the situation is harmful in any way, the law on this sector should be examined for possible amendments.¹⁷⁸

The situation of satellite broadcasting is slightly different. The first Albanian satellite television station, a news channel, was only launched as recently as 2003. Soon after it started broadcasting, the station signed an agreement with Alba TV to use its local frequency for terrestrial broadcasting. The KKRT opposed this agreement and decided to shut down Alba TV, on the grounds that no agreement was legal without KKRT permission and that Alba TV had not paid its fees and taxes for a long time. After subsequent negotiations, the KKRT amended the law by adding that a satellite broadcaster could seek permission to rebroadcast its programmes terrestrially, and vice-versa.¹⁷⁹

Some local and national television stations also air their terrestrial programmes via satellite, for a fee, to target the extensive communities of Albanians living abroad. A group of six stations started transmitting via satellite after reaching agreement with Eutelsat. This group includes the two private national television stations and four Tirana-based local television stations.

Unfortunately there are no data on the number of households with multichannel television and Internet access. However, the last census reflects the almost universal presence of television sets. About 95 per cent of rural households have at least one television set; the figure rises to more than 95 per cent for urban families.¹⁸⁰

¹⁷⁵ KKRT, *2004 Annual Report*, Annex 2, p. 5.

¹⁷⁶ KKRT, *Draft of the Strategy of Development of Digital Television Broadcasting in Republic of Albania*, 11 May 2004, (hereafter, KKRT, *Draft Development Strategy*).

¹⁷⁷ Albanian Media Institute, *Albanian Media Newsletter*, August-September 2004.

¹⁷⁸ Interview with Argita Shkupi, 10 February 2005.

¹⁷⁹ Interview with Argita Shkupi, 10 February 2005.

¹⁸⁰ INSTAT, *Population of Albania 2001*, p. 65.

The Internet was introduced to the country by international organisations that established offices in Albania in the 1990s. Access became easier towards the end of the decade. Technical inadequacy, a lack of familiarity with the technology, a lack of public policy and the high costs delayed the wider spread of Internet access. Bulgarian analyst Simeon Mitropolitski estimates the number of personal computers with Internet access as ranging from 10,000 to 12,000.¹⁸¹ The last two years have witnessed the gradual expansion of Internet access outside of Tirana. The number of Internet providers is estimated at between ten and 15, including AlbTelekom, the public operator of fixed phone lines.

7.3 Services

RTSH was the first broadcaster to start satellite broadcasting through an analogue system.¹⁸² This project started in 1993, with the transmission of two hours of RTSH's terrestrial schedule, including the main evening news bulletin. Its was aimed at Albanian émigrés across Europe. In May 2001, RTSH opened negotiations with Eutelsat on switching to digital satellite broadcasting, because it offers a better quality of broadcast at a lower cost. Analogue satellite broadcasting was suspended on 15 April 2002 and digital broadcasting started on 25 May 2002. This led to the signing of an agreement with Eutelsat in July 2002. This transition was not very smooth, due to the financial burdens: AlbTelekom, the first signatory of the contract with Eutelsat, was unable to meet its commitments, so there were repeated, though brief, interruptions to the satellite transmission. RTSH now has a separate satellite schedule, and it transmits 18 hours per day digitally, with a staff of 14.

There was an initiative to carry this schedule through a network of terrestrial stations, including RTSH's station and other national or local television stations. The idea never came to fruition, probably because RTSH and commercial television stations could not negotiate an agreement that would have profited RTSH by allowing them to lease satellite time to the private stations. Instead, the private stations grouped together and reached a separate agreement with Eutelsat.

¹⁸¹ Simeon Mitropolitski, "Albania: the forgotten kid of Europe", 2 January 2003, available on the website of the International Real Estate Digest at <http://www.ired.com/news/mkt/albania-03.htm> (accessed June 2004).

¹⁸² All the data in this sub-section is taken from the following report: RTSH, *Praktika per realizimin e projektit te stacionit dixhital*, (*The practice for the implementation of the digital station project*), RTSH Technical Directorate of the General Directorate, 9 October 2002, (hereafter, RTSH, *Digital station project*).

7.4 Funding

RTSH's first period of satellite broadcasting, through an analogue system, had an average annual cost of €734,000.¹⁸³ This effort was carried out with the financial support of ethnic Albanians in the neighboring Serbian province of Kosovo, and the Kosovar diaspora throughout Europe, on the grounds that the satellite service benefited the tens of thousands of Kosovar émigrés in Western Europe. Switching to a digital system cut the expenses to an annual average of €490,000, and sometimes even lower: the cost for analogue broadcasting in 1993 was €618,000, while the cost for digital broadcasting in 2002 was €225,000. The new programme of digital satellite broadcasting is paid out by the Government's annual budget allocation to RTSH. (See section 4.3.)

7.5 Digital television

The debate on digitalisation has drawn attention recently, not because any specific plans have been disclosed, but rather because a television station started to broadcast digitally without any legal provisions. The KKRT's 2003 report stated that the preparation of a national frequency map for digital signals is a priority for 2004. The KKRT has also prepared a draft strategy to develop digital television. Following consultations with the OSCE, media owners and other relevant actors, this draft is still under review by KKRT. Once the review is finished, the draft should be presented to the Parliament for approval.¹⁸⁴ A version of this draft, prepared by October 2004, recognized the need for an action plan to switch from an analogue signal to a digital signal, and the plan presented several scenarios for the transition. Given the economic conditions in the country, the draft proposed closing the analogue signal in Albania somewhere in the period 2016–2020.¹⁸⁵ Sufficient time is clearly needed for the transition, as the necessary resources are not in place: the study for analogue frequencies was completed only in late 2002, and there is no study at all on a digital map.

As few policymakers are familiar with the draft strategy for developing digital television, it is not surprising that the public debate has yet to begin. In a way, this debate was provoked by Digitalb, which started broadcasting in July 2004. Soon afterwards, the KKRT issued a press release condemning this step as illegal, because the regulation of this sector had not been approved. Digitalb countered that the KKRT's slow movement on this issue was holding back the media.

Digitalb was not warmly welcomed by the other terrestrial stations, but for a different reason: they complained that it was broadcasting programmes for which it had no broadcasting rights. In protest, a few local stations reverted to broadcasting movies or other programmes without copyright. Almost all of them have returned to

¹⁸³ RTSH, *Digital station project*, p. 3.

¹⁸⁴ Interview with Argita Shkupi, 10 February 2005.

¹⁸⁵ KKRT, *Draft Development Strategy*, p. 23.

broadcasting legally acquired programmes, with the chief exception of TV Shijak, which continued to broadcast movies without broadcasting rights almost every evening, until late December 2004. These stations claimed that at least they were not charging for their piracy, as Digitalb was doing. The KKRT responded by saying that it had no competencies to ask for documentation of broadcasting rights from subjects that the law had not provided for. This was a clear case where the delay in drafting legislation for new technology endangered one of the KKRT's real successes: the implementation of anti-piracy legislation.¹⁸⁶ Nonetheless, TV Shijak interrupted its pirated programmes right after KKRT's decisions to withdraw its licence, indicating KKRT's reassertion of authority.

8. CONCLUSIONS

Television is the most influential part of the media sector in Albania. It follows that the healthy and balanced development of television is crucial to the development of Albanian society in general.

Albanian television stations have developed remarkably, considering that, except for RTSH, the oldest among them has no more than nine years' experience. Most of these stations started in a very primitive way, some even broadcasting from private homes, operated by completely inexperienced people using outdated equipment. Nowadays, most stations have good equipment and some – mostly stations in Tirana – have switched entirely to digital equipment. The quality of reporting has also increased over the years, though there is still ample room for improvement.

Unfortunately, the journalism training which has been provided in considerable quantities by various organisations, has not had any impact on the ability of journalists to organise themselves and protect their interests and their profession. Quality journalism is difficult to achieve when the journalists themselves are very often deprived of their rights. The overwhelming majority of journalists work without contracts, and there is no such a thing as collective bargaining. The country does have a Labour Code, which regulates employment relations and also applies to media outlets, but it is not respected in practice.

At the same time, media legislation has failed to satisfactorily define the rights of journalists, *vis-à-vis* owners – and even editors. The law provides no clear method of defining or proving violations of editorial independence. Because the legislation is incomplete or unimplemented, and because journalists tend to have an extremely insecure employment status, there is ample room for media owners to interfere with editorial policy in any manner, at any moment.

As a matter of fact, media owners are the driving force in the Albanian media landscape, including in television. At a time when media self-regulation is non-existent, and journalists

¹⁸⁶ Law no. 9124/2003.

have no effective rights, the proprietors are completely free to shape editorial policy according to their whims and interests. The proprietors often have a background in other businesses, such as construction and trade, and there are also cases when the owners have political affiliations, or even government posts, before or after holding a media business. Media ownership became a controversial issue in 2003, due to the persistent allegations that owners have traded favourable coverage of politicians for patronage of their other businesses.

The latest report of the KKRT revealed that not even one television station made a profit in 2003. They are all supported by outside sources and, on average, advertising revenue covers less than half of their expenses. In fact, the media market is so glutted it is almost deformed, with 21 daily newspapers, 45 radio stations and 73 television stations in a developing country of some 3.5 million people. Even though most of these outlets are unsustainable, the number that have stopped operating is far exceeded by the new outlets starting up. This paradox is usually explained by widespread allegations – so far unproven – that some proprietors use their media outlets as fronts for enhancing their other businesses. At the same time, although transparency has become a much-used word, it seems there are no actors with the will to push for more transparency, and the legislation does not offer much help in this area.

Encouraging transparency is only one respect in which media legislation could be improved. Since the 1990s, legislation has followed on the heels of actual developments, from the emergence of private print outlets and broadcasters, to the problem of piracy, and the appearance of digital media.

There has been no concerted attempt to address and regulate the media sector. In this context, the law needs constant revision, in order to keep abreast of developments. However, the letter of the Law on Radio and Television is less of a problem than its implementation. There are parts of the law that are rarely implemented, due to their weak definition, insufficient political will, ineffective institutions and the lack of a tradition of law enforcement. Lawlessness, inadequate regulation and individual adventurism have been the norm for private television from the beginning.

To make matters worse, the weak authority of the regulatory body has encouraged fierce controversy over its decisions. Some television stations see the KKRT as a Government-controlled body. For different reasons, many of KKRT's decisions have been ignored. The latest episode concerning digital broadcasting, and other televisions' stations protests against the digital broadcaster, confirmed that the KKRT still has not managed to fully stamp its authority on its field.

On a more positive note, the KKRT has managed, with considerable effort, to implement the anti-piracy law. This has increased the creativity in programmes made by television stations, and has also boosted the authority of the KKRT itself. Although this authority continues to be shaken from time to time, it can be said that the anti-piracy measures have opened new possibilities for the development of television stations, including their professionalism.

Like the KKRT, the public broadcaster, Albanian Television (TVSH), is still struggling to break with its old image as a state-owned, unconditionally pro-Government organ. Its popularity has decreased steadily, and there is much to be done before TVSH truly deserves the title of “public service” broadcaster.

The media in Albania are generally seen as an extension of politics. This applies especially to the public broadcaster. Developments at RTSH have been characterised by unstable leadership, continuous accusations of political bias and poor quality, a bloated payroll, lack of financial transparency, corruption, and bad management.

On the whole, there is a lack of vision in media policy, especially for television and the new technologies. Policies, like laws, always trail behind the emergence of new media. More often than not, the policies accommodate the media’s needs, rather than shaping the media to improve their development. To some degree, the deficiencies of policy-making have been reinforced by the lack of research on the media, which makes it almost impossible to make reliable assessments of the impact of media on society.

9. RECOMMENDATIONS

9.1 Policy

Legislation

1. The Government should take steps to fill the gaps in media legislation, especially those relating to new broadcasting technologies and services, with reference to international instruments on digital broadcasting and competition.
2. International and intergovernmental organisations should continue assistance to the Government and Parliament, and to the regulator – the National Council of Radio and Television (KKRT) – for the drafting of media legislation. They should urge consultation with Albanian media freedom NGOs, and associations of media professionals, as part of the drafting process.
3. International and intergovernmental organisations should continue their assistance to law enforcement agencies on improving the implementation of media legislation.

Public debate

4. Local NGOs working on freedom of expression and access to information, as well as organisations dealing with civil rights more widely, should generate a public debate on important issues related to media development in an informed and impartial spirit, raising awareness of how the media affect citizens. Such an initiative should be strongly supported by international and European institutions, such as the European Union, the OSCE and the Council of Europe.

Research

5. The Government should encourage the indepth analysis of the media sector, with particular attention to audience research. To guarantee the independence of such research, the Government might function solely as (co)financer of work conducted by academic institutions, local or foreign NGOs or other non-State establishments.
6. Civil society organisations should urge the Government to support such independent research in the media sector.

Consultation

7. The Government should consult the media owners, media freedom NGOs, associations of media professionals, and the international community – especially the Council of Europe – when taking steps that affect the media, and take their responses into account.

New technologies

8. The Government should prepare a long-term strategy for media development that would anticipate the evolution of new technologies, including digital broadcasting and the Internet.
9. The Government should, as a priority, propose to Parliament amendments to the Law on Radio and Television aimed at regulating digital broadcasting, in conformity with international and European standards.

9.2 The Regulatory authorities (KKRT)*Independence*

10. The Government and Parliament should ensure the full implementation of existing legislation, in order to respect and reinforce the independence of the regulatory authority, the National Council of Radio and Television (KKRT), in particular with respect to the nomination of KKRT members and the preparation of the KKRT's annual report.

9.3 Public and private broadcasters*Media diversity*

11. The Government and Parliament should enforce media transparency through the full implementation of media legislation, and by regular reviews of media ownership and funding.

Journalists' rights

12. The Government should take specific steps to enforce the Labour Code in media organisations and regularly monitor its implementation.
13. Journalists' associations, with the assistance of other civil society actors, should demand enforcement of the Labour Code in media companies, and eventually collective bargaining.
14. Civil society organisations should support individual journalists whose rights are violated by media owners, State authorities or other parties.

Funding

15. The Government should establish an independent body to be responsible for the allocation of all Government subsidies to media outlets, in accordance with the principles and procedures set forth in the relevant recommendations of the Council of Europe. This allocation process should be clear and transparent.

State advertising

16. The Government should take immediate steps to ensure the unbiased and apolitical allocation of State advertising and to increase the transparency of the allocation of such advertising.

Independence

17. The Government should regularly investigate allegations of violations of media freedom and independence.

Research and monitoring

18. International and intergovernmental organisations should monitor and report publicly on violations of media independence.
19. International and intergovernmental organisations should assist with research and monitoring of particular areas of media activity, such as its independence, law enforcement, and media ethics.

9.4 The public broadcaster (RTSH)*Reform of RTSH*

20. The Government should support the transformation of Radio-Television of Albania (RTSH) into a genuine public service broadcaster, by clarifying roles and responsibilities and guaranteeing the transparency of management.
21. Journalists' associations and intergovernmental organisations should take appropriate steps of their own to support the transformation of RTSH.

22. The Government and relevant NGOs should seek to engage all involved actors in a public debate on the future of RTSH. This should include RTSH journalists, past and present directors, the regulatory authority (KKRT), NGOs and the journalism community in general.
23. Civil society organisations should bring concerns over RTSH to public attention and request solutions from the competent authorities. Regarding TVSH, these concerns include, but are not limited to, programme quality, transparency of administration, effectiveness of management, and independence from government and political factions.

Funding

24. The Government should ascertain and publish the revenue levied through the licence fee. When this has been done, thought should be given to ways of improving the rate of payment of this fee.

Programming

25. The management and staff of Radio-Television of Albania (TVSH) should improve the quality of programming output and define a programme framework that would increase the public interest and appeal of the station.

9.5 Civil society

Codes of ethics

26. Journalists' associations should draft codes of ethics or amend the existing one, raise awareness of these codes, and promote compliance with them.

Media associations

27. Journalists' associations should significantly strengthen the capacities for public debate and awareness of media organisations and associations, particularly through improved cooperation and by promoting journalists' rights *vis-à-vis* media owners and the Government.
28. International and intergovernmental organisations should provide experience and assistance for strengthening media associations.

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