
The Media Market and Media Ownership in Post-Communist Ukraine

Impact on Media Independence and Pluralism

Natalya Ryabinska

Concentrated ownership of media by industrial oligarchs dependent on political favor is a significant obstacle to securing freedom of the press in Ukraine.

MEDIA markets and media ownership in Central and East European countries are useful indicators of the levels of media freedom and pluralism in the region. Strong, developed media markets are essential for the political independence of the media. The type of ownership and the strength of the connections between media owners and political actors determine how closely the interests of the people who own private media are intertwined with the concerns of political parties and leaders.¹ The scope and direction of state regulation of media markets are decisive for the state's ability to affect media democratization. An analysis of these factors will help in determining whether governments hinder the democratic performance of media institutions or have tried to facilitate the democratization of the media by implementing policies that ensure the transparency of media ownership, limit ownership concentration, or secure public access to information.²

Media markets have been the subject of several large, wide-ranging studies focused on Hungary, Poland, the Czech Republic, Slovakia, the Baltic states, the countries of the former Yugoslavia, Romania, and Bulgaria, among others. However, such inquiries have never considered the situation of the media market in Ukraine. The transformation of the Ukrainian media has, in general, attracted very little attention on the part of scholars. This article attempts to fill the gap by focusing on the issue of media markets and media ownership in post-communist Ukraine.

NATALYA RYABINSKA is an assistant professor at the University of Euro-regional Economy in Jozefow, Poland.

Media Markets in Central and Eastern Europe

The changes that took place in the post-communist countries of Central and Eastern Europe were expected to lead to the creation of independent, pluralistic, and democratic media. This process was to begin with the end of the state monopoly over the media and the establishment of private ownership. Privatization was seen as a prerequisite for the independence of the media from state control, because the creation of privately owned media outlets, plural and diverse, would guarantee the fair, representative reflection of the whole range of views and interests in Ukrainian society.

However, the formation of a developed and pluralist commercial media sector—free of control or pressure from political or economic interests—has turned out to be a difficult task. Although students of post-communist media transformations acknowledge that some post-communist countries, especially those currently categorized as “consolidated democracies” (especially the Czech Republic, Poland, and Hungary) managed to establish strong, financially successful, independent commercial outlets and to shape a developed and diverse media market,³ there is a lingering dissatisfaction with media performance in the region. Commercial media, even if financially independent, are not fully free of political influence coming from both outside and inside. Post-communist politicians habitually see the media as “theirs,” while many journalists still share the communist-era conviction that the population needs to be led, schooled, and mobilized and that journalists should be players in political arena.⁴ Political leaders perceive media criticism as a threat and therefore use various formal and, especially, informal instruments to exert pressure on the media.⁵

The other obstacle to the democratic performance of privately owned media arises from economic pressure—the dictates of the market. Commercial media have to survive the growing competition in pluralistic media markets; at the same time, they seek to maximize their profits, like any other business. The desire of media owners to obtain profits at the lowest possible expense results in the commercialization of the media and the tabloidization of media content.⁶ Quality press is replaced by tabloid-like dailies, and TV and radio broadcasters fight for audience attention with the help of cheap entertainment shows and soap operas. As a result, the richness and diversity of media content shrinks: TV formats are standardized and unified (e.g., “Dancing/Singing/Skating with the Stars”), while TV channels offer viewers the same menu of popular soap operas and films. Last, but not least,

the growing concentration of media ownership poses a significant threat to the pluralism and independence of commercial media.⁷

However sharply media analysts in the “settled” new democracies of East-Central Europe criticize the privately owned, market-driven media in their countries, these outlets commonly demonstrate a high level of editorial independence and resistance to political pressure. For example, *Gazeta Wyborcza* and *Rzeczpospolita* in Poland, *Pravo* and *Mlada Fronta Dnes* in the Czech Republic, and *Népszabadság* in Hungary all show that media in these countries may themselves decide about their content. These countries have completed the transformation of their media institutions to a democratic model and are currently consolidating media freedom as well as shaping the behavioral and attitudinal foundations of media freedom.⁸ The hallmark of this stage is the fact that behavioral patterns corresponding to a baseline of media freedom are more and more commonly perceived in these countries as something normal and regular, whereas actions that challenge the freedom of the media are increasingly marginalized.⁹

This is not the case in Romania, Bulgaria, Albania, Macedonia, Serbia, Montenegro, and other post-communist countries whose media are still categorized by Freedom House as “partly free.” For example, studies of Romanian media show that the values, mentalities, and behavior of media owners, editors, and directors in that country are far removed from media independence and democratic conduct.¹⁰ As Romanian media mogul Dan Voiculescu commented, “The theory of independent media is a chimera.”¹¹ Newspapers, radio, and television in Romania, Bulgaria, Serbia, or Albania are, by and large, not autonomous from governments or vested interests, but highly dependent on them, and they function not as democratic institutions, but as tools for trading influence and manipulating public opinion in the interests of power-holders.¹² In general, media markets and media ownership in these countries meet several of the following criteria:¹³

- They are underdeveloped, and therefore cannot easily sever their economic ties with institutions of power.
- They are mostly small and fragmented, and therefore have very limited possibilities to be credible and profitable.
- They are subject to recurrent attempts by the state to control and regulate them.
- Their owners are closely linked to people who wield economic and political power.
- They host a great number of media outlets, particularly broadcast media.

- They are characterized by a lack of transparency of media ownership.
- They may contain monopolies or a high concentration in press distribution services.

In addition, in some countries (Bosnia and Herzegovina, Montenegro, Macedonia) the existence of parallel media markets divided along linguistic lines makes the economic survival of commercial media outlets even more complicated. Finally, as in the “settled” new democracies, their media have a negative tendency toward tabloidization, and are undergoing a process of concentration of ownership.

Ukraine began to democratize its media sector in the early 1990s. Censorship was abolished in 1991, and in 1992 the Ukrainian parliament adopted legislation that legalized private ownership of media. While media in Ukraine resemble the media in the “advanced” new democracies in some respects (e.g., ownership concentration, commercialization, tabloidization), they have much more in common with the media in Romania, Bulgaria, and the Western Balkan countries. The underdeveloped media markets in these countries are breeding grounds for the use of media in the interest of governments and political-economic elites rather than of the general population.

At the same time, the Ukrainian media system has some peculiarities, such as the unfinished privatization of the media, the continuing existence of state-owned media outlets, and the predominance of so-called oligarchs or industrial-financial magnates in the media industry. Ukrainian private media have to operate amid legal uncertainty and disregard for the rule of law, under which even such high-profile crimes against journalists as the murder of *Ukrainska Pravda* editor Georgiy Gongadze on September 16, 2000, remain unsolved.¹⁴ They also have to compete with media from neighboring Russia, which easily penetrate the Ukrainian market with diverse, quality, and—most important—cheap products. This article presents the main features of the Ukrainian media market and media ownership in comparison with the situation in other post-communist countries, pointing to their commonalities and differences as well as analyzing the impact of the characteristic features of media ownership in Ukraine on the independence and pluralism of the media.

The Ukrainian Media Market

Size and Wealth. With a population of 46 million, Ukraine could have a large, dynamic media market. According to ZenithOptimedia, Ukrainian television has the second-

largest (after Russia) audience in the region—18.6 million viewers.¹⁵ Before the global economic crisis began in the fall of 2008, Ukraine had the fastest-growing advertising market in Europe, which was expanding at an average of 30 percent per year and was becoming more and more attractive for investors, both domestic and foreign.¹⁶

However, compared to other European countries, the Ukrainian media market is largely underdeveloped. The country’s weak economy does not produce enough market resources to ensure the development of a private, advertisement-financed media sector. The advertising budget in Ukraine is low in comparison with the ad budgets of countries with populations of comparable size. For example, in 2008 the total TV advertising budget in Ukraine amounted to about \$500 million, which was twice as small as the total advertising budget in neighboring Poland, and forty times smaller than in Germany.¹⁷ Per capita advertising spending in Ukraine is among the lowest in the region—\$15.90 in 2006, whereas in Poland, the Czech Republic, and Hungary it was \$100, \$173, and \$296, respectively, as well as \$44.20 in Russia and \$57 in Bulgaria.¹⁸

Since Ukraine is a TV-viewing nation, the largest share of advertising money (more than 45 percent) goes to broadcast media.¹⁹ Newspapers, meanwhile, comprise only around 7 percent of the advertising market, which is very small compared to the more common 30–40 percent in neighboring countries, and cannot ensure the newspapers’ financial independence.²⁰ This is one of the reasons for the underdeveloped print media market in Ukraine, where newspaper circulation (74 readers per 1,000 inhabitants) is comparatively low among the post-communist countries.²¹ As for the TV advertising market, only nationwide channels have a good chance of attracting scarce advertising money, since the advertising budget is very unevenly divided between national and regional TV channels. For example, in 2010 the advertising budget of national TV channels totaled \$342 million, whereas regional stations got only \$14.7 million in advertising money.²²

Advertising income is difficult to get because the advertising “pie” has to be divided among too many players. There are fifteen nationwide, nonsatellite broadcast TV channels, one of which (UT-1) is state-owned.²³ This is 2.5 times that in Poland, which has only six national TV broadcasters (two of which are public service broadcasters).²⁴ As a result, commercial TV channels in Ukraine wage a fierce battle for ad revenue, often by resorting to the commercialization and tabloidization of their content.

Dependence on Political Advertising. The lack of a developed advertising market and the low average income of the Ukrainian population make it difficult for print media to reap profits from sales. In consequence, Ukrainian media are dependent on political advertising. Since 2000, Ukraine has held national elections almost every two years, and political advertising (both direct and indirect) has become one of the leading sources of advertising money. During the 2009 presidential election campaign, for example, the share of political advertising during the last five months of the year (August–December) accounted for as much as 23.5 percent of all television advertising income in 2009.²⁵ Bearing in mind that this figure is based on data for direct political ads—and thus does not take into account the hidden advertising widely used by presidential contenders—one may assume that political advertising accounts for an even larger share of total TV ad revenue.²⁶ This is an important difference between Ukraine and other post-communist countries. For example, spending on political ads in Poland during its parliamentary and presidential elections in 2005 accounted for only about 15 percent of the total TV advertising market.²⁷ In mature democracies, the share of political advertising in media ad revenues is even lower. In the United States, the share of TV political advertising in total television ad revenues oscillates between 2.6 percent and 7.6 percent.²⁸ In West European democracies like France, the United Kingdom, and Sweden, paid political advertising is banned or heavily restricted.²⁹

Unfinished Privatization. Two factors hinder fair market competition in the Ukrainian media market: unfinished privatization and the continued existence of state-owned and municipal media outlets. Ukraine has not introduced public service broadcasting yet. Its media are essentially divided into two sectors: private and state-owned (including municipal and communal media).³⁰ Ukrainian national and local governments have been in no hurry to privatize the remaining state-owned outlets because they frequently use them for self-promotion and in power struggles.

The unfinished privatization of the media has inhibited media democratization across post-communist Central and Eastern Europe. The states where the media partly remains in the hands of national or local authorities—Albania, Macedonia, Croatia, Bosnia and Herzegovina, Moldova, Armenia, Belarus, Russia, and the Central Asian republics—are all states with low scores in the international press freedom rankings.³¹

When Viktor Yushchenko became president in 2005 after the Orange Revolution, he declared that the privati-

zation of state and municipal media was one of his major goals. However, no significant action followed upon these promising words. In 2006—fifteen years after the start of the post-communist transformation—as many as half of all newspapers and magazines in Ukraine still belonged to the state.³² The state also owned thirty-five television and radio outlets, including the nationwide UT-1 television channel and three radio channels.³³ As of late 2011, the situation has not changed.

In addition, there are still more than 100 state-owned newspapers, as well as more than 800 municipal newspapers, awaiting privatization; together they constitute almost 22 percent of all Ukrainian periodicals.³⁴ The national state owns about 4 percent of the TV and radio sector, on top of the nearly 815 municipal television and radio companies controlled by local governments.³⁵ These media are used in the interests of local authorities. One of the most well known cases is that of the mayor of Kyiv, Leonid Chernovetsky, who has, for practical purposes, transformed the capital city's media into his personal public relations firm.³⁶ During the pre-term municipal electoral campaign in 2008, Kyiv print and TV outlets heaped lavish praise on Chernovetsky while smearing his rivals' reputations.³⁷ Similar practices are widespread across the country.

Although state and municipally owned media are generally less popular than privately owned outlets, at least at the national level,³⁸ many retain a considerable audience share in distant or poorly populated areas where they are the only media available. Three state-owned nationwide radio channels have managed to keep a relatively large part of their listeners because of their exclusive access to a system of wire radio broadcasting traditionally popular in Ukraine (especially in rural areas) from Soviet times.³⁹ The same is true for municipal newspapers, which often are the only papers in some rural areas.

State-owned media, whether national or local, pose unfair competition against privately owned print media. Unburdened by the need to earn money for their survival, they offer much lower rates to advertisers and lower prices for readers and subscribers, indirectly undermining the financial sustainability of their privately owned rivals. Moreover, state media wage unfair competition on the labor market because the salaries they offer journalists and, more important, their pensions are calculated according to the public-servant scale. Thus jobs at state-owned media—especially local print media—are considerably more lucrative than those offered by private media.⁴⁰

Unfinished privatization poses yet another obstacle to the development of the media market in Ukraine; namely,

the state-owned enterprise Ukrposhta, which dominates the press distribution market. Ukrposhta, a government-controlled post office, has a monopoly on press delivery in some regions. Thanks to its continued Soviet-era management system, Ukrposhta is highly inefficient and constantly raises the prices of subscription delivery as well as delivery to retail outlets, thus raising barriers to the development of private publishers, especially in outlying areas.⁴¹ In addition, state authorities have been known to discipline unfavorable media by refusing to deliver publications that have criticized them.⁴²

Foreign Investments. The state is not a good media manager. State and municipal newspapers are boring and continue to practice Soviet-style journalism, while state radio and TV lack new equipment and technologies. The example of other post-communist countries that have managed to create a developed media market shows that substantial investments are needed to turn old-style publications into outlets capable of winning audiences and competing in a free market.

The Czech Republic, Hungary, Poland, and the Baltic states solved their funding problems by relying on foreign investments. For example, the Polish *Rzeczpospolita*, an official government daily up to 1989, became a high-quality, high-circulation newspaper after the French firm Socrates bought 49 percent of its shares and poured \$4.5 million into its renewal.⁴³

In addition to bankrolling the modernization of outdated communist-era media or launching new outlets to help diversify the market, Western businesses bring industry expertise, professional management, education, and training. Students of media and democracy often criticize Western media corporations in Central and Eastern Europe for putting profit ahead of quality,⁴⁴ but they acknowledge that foreign owners have extensively contributed to the development of independent pluralist media in the region. For example, Miklos Sükösd, of the Center for Media and Communications Studies in Central European University (Hungary), believes that foreign ownership effectively ensured that the government would not interfere with Hungary's print media, which were privatized by German and Austrian investors.⁴⁵ Marius Dragomir, media expert at the Open Society Institute and editor of the "Television Across Europe" series, claims that without Western players in the media markets of Eastern and Central Europe to keep the debate about media freedom alive and ease the legal environment concerning the media, the situation would have been much more problematic.⁴⁶

Western investments in media have been much lower

in Ukraine than in Poland, Hungary, or the Baltic states. The rare exceptions include glossy magazines and the Internet, the only type of media in Ukraine where foreign capital—both Western and Russian—is extensively represented. In many Central European countries (Poland, Czech Republic, Hungary, Slovakia), Western media companies invest in daily and weekly newspapers, sectors that are unattractive in Ukraine because of their low profitability. The only popular nationwide news outlet that ever belonged to a Western investor was *Korrespondent* magazine, whose former main owner, Jed Sunden, is a U.S. citizen, but in April 2011 he sold his media holding, KP media, which included *Korrespondent*, to Ukrainian oligarch Petro Poroshenko.⁴⁷ Foreign capital is also present in the Ukrainian TV market, but it is Russians, not "Westerners," who invest in Ukrainian TV channels.⁴⁸ In general, however, Ukrainian television, which has become increasingly profitable since the early 2000s, is dominated by Ukrainian businessmen.

To be precise, Western companies did make substantial investments in Ukrainian TV in the late 1990s and early 2000s, but they gradually began to leave the market, selling their shares to Ukrainian entrepreneurs. For example, the U.S. company Story First Communications was one of the co-founders of ICTV (International Commercial Television), a national TV channel, but in 2000 it sold the channel to the Ukrainian tycoon Viktor Pinchuk, the son-in-law of then-president Leonid Kuchma. Similarly, the U.S. company Central European Media Enterprises (CME), which cofounded 1+1, one of the most popular Ukrainian TV channels, in 1996 and became its 100 percent owner in 2008, sold the channel in early 2010 to the Ukrainian oligarch Ihor Kolomoysky.

Western investors stay away from the Ukrainian media market because of the lack of stable, transparent business regulation, the widespread corruption, and the uneasy relationships between the media and politicians. For example, the above-mentioned Jed Sunden, the former co-owner of the KP media holding and founder of the leading English-language weekly *Kyiv Post*, was detained at Boryspil Airport in early 2000 and declared *persona non grata*. He was allowed to enter Ukraine only after diplomatic intervention from Washington.⁴⁹

An additional barrier to foreign investors, especially in television, is that the main players in the broadcasting sector are not primarily driven by market logic. This distorts market competition. The owners of Ukrainian TV channels are entrepreneurs, but media outlets are not an important source of capital for them. They see TV as a medium in which they can accumulate political influence

Table 1

Ownership of Terrestrial TV Stations (2011)

TV channel	Owner	Position in Gfk broadcast ratings (June 2011)	Audience share (Gfk Ukraine, June 2011)
Inter	InterMediaGroup (Valeriy Khoroshkovsky)	1	15.45%
1+1	Ihor Kolomoisky Group	2	11.39%
"Ukraine"	Rinat Akhmetov Group	3	9.99%
STB	StarLightMedia (Viktor Pinchuk)	4	9.9%
ICTV	StarLightMedia (Viktor Pinchuk)	5	8.04%
Novy	StarLightMedia (Viktor Pinchuk)	6	6.51%
UT-1	State	7	3.39%

Source: Gfk Ukraine (June 2011); Diana Dutsyk, "Media Ownership Structure in Ukraine: Political Aspects," in *Public Service Broadcasting: A German-Ukrainian Exchange of Opinions. Results of the Conference on October 20th, 2010 in Cologne, Germany*, ed. Olexiy Khabyuk, Manfred Kops (Cologne, 2010), pp. 29-40.

and "convert" it into opportunities to develop or support their main businesses. They invest generously in their media holdings and fight for the high ratings that determine how much influence a channel has, but obtaining an (immediate) profit is not necessarily what motivates them. For example, Rinat Akhmetov's "Ukraine" TV channel, which has undergone basic and expensive reorganization since 2005, has never turned a profit.⁵⁰

This does not mean that Ukrainian media owners, especially media moguls, do not seek profits. On the contrary, with the development of the media market, they increasingly view their media companies as profitable businesses. Nonetheless, they do not hesitate to pay overpriced sums for broadcasting licenses, invest in disproportionately expensive equipment, or take other steps that seem illogical from the point of view of normal market behavior. This is because political goals take precedence over profits.

"External" Media Ownership. The most popular media in Ukraine, especially at the national level, are privately owned. The top five Ukrainian TV channels are all commercial enterprises, whereas the state-owned UT-1 ranks seventh, with an audience share of only 3.39 percent (see Table 1).⁵¹ The top nationwide dailies, *Fakty i komentarii*, *Argumenty i fakty*, *Segodnya*, and *Komsomolskaya pravda v Ukraine*, are also privately owned (see Table 2).⁵²

What distinguishes the Ukrainian market from the media markets in many other post-communist countries of Central and Eastern Europe is the fact that the most prominent media owners in Ukraine are industrial and financial magnates with good political connections. Their main interests are outside the media sector. Three of the four media empires controlling the TV market in Ukraine

belong, respectively, to Viktor Pinchuk, the founder and main owner of one of Ukraine's leading steel industry groups; Rinat Akhmetov, a coal and steel magnate and the country's richest man;⁵³ and Igor Kolomoisky, the leading partner of a banking and industrial conglomerate engaged in the steel, chemical, and energy industries. They need access to media to influence politics and protect their businesses, given Ukraine's weak state, unreliable institutions, and lack of rule of law. Political influence also may lead to commercial privileges and advantages as state property continues to be privatized.⁵⁴

In her study of contemporary Russian media, Koltsova distinguishes two types of ownership: "internal" and "external." Internal media owners confine their activities to media organizations and are guided mainly by their interest in earning a profit from their media business. External owners, in contrast, are "interested first of all in their political capital or in the development of other kinds of business for which they need the advertising-propaganda resource of the mass media."⁵⁵

External ownership of media outlets constrains the independence and pluralism of the media because of the political and economic interests of their owners. Koltsova notes that internal media owners, whose primary aim is profit maximization, predominantly control the financial aspects of their media business and never interfere in the area of content. This is not the case for external owners, for whom the media is a tool with which to realize their political and economic goals. They can overlook some financial mismanagement, but steadfastly exercise control over content.⁵⁶

External media ownership is not common in the "settled" new democracies of Eastern and Central Europe.

Table 2

Ownership of Top Four National Dailies (2010)

Newspaper	Owner
<i>Fakty i komentarii</i>	Viktor Pinchuk
<i>Argumenty i fakty</i>	Boris Lozhkin
<i>Segodnya</i>	Rinat Akhmetov
<i>Komsomolskaya pravda v Ukraine</i>	Boris Lozhkin, Ihor Kolomoysky

Sources: Konrad-Adenauer-Stiftung, "Ukrainian Media Landscape—2010," 2011, www.kas.de/ukraine/ukr/publications/23004/; Konrad-Adenauer-Stiftung (KAS), "KAS Democracy Report 2008: Ukraine," 2008, www.kas.de/wf/en/33.14855/.

Media outlets in these countries are owned mostly by national and foreign companies for which media is the main business. The cases of entry of external capital into domestic media markets are a cause of concern among analysts.⁵⁷ Post-communist countries with weak media markets (Macedonia, Albania, Bulgaria, Romania) tend to be dominated by external owners. The media in all these countries suffer from the interplay of economic, political, and media power concentrated in the hands of the same owners. In some cases, the owners of media conglomerates specialize in the media business. In Romania, for example, the media landscape is a mix of outlets that are profit-oriented and outlets for which profits are incidental to protecting and promoting the economic and political interests of their owners.⁵⁸ However, in all the post-communist countries external ownership of media outlets hampers the democratic performance of the media.

Ironically enough, although private ownership is considered an important condition for the independence of the media,⁵⁹ the process of media appropriation by large financial-industrial groups in Ukraine was accompanied by a reduction of their autonomy and freedom.⁶⁰ Ukrainian "big fish" began to seize portions of the media market in the mid-1990s. By 1995, interest groups that had both administrative decision-making power and economic resources began to emerge. Their economic power was consolidated through the large-scale privatization process conducted by President Kuchma. Ukrainian oligarchic clans also gradually gained ownership or control in the media sector.⁶¹

This trend intensified after 1998, when a global financial crisis significantly weakened private media companies. Their establishment was possible after the adoption of laws in 1990–1991 abolishing the Communist Party's monopoly on the media and allowing private ownership of media organizations. If before 1998 many broadcasting companies functioned as conventional, middle-sized business structures and were relatively free and independent, the crisis—combined with growing political pressure by

the Kuchma administration—forced them to sell their shares to politically and economically powerful oligarchic clans. Within a year or two, the main nationwide Ukrainian TV channels (Inter, 1+1, ICTV, TET) fell under the control of industrial magnates. Most of these figures were members of the entourage of President Kuchma—his son-in-law, steel-pipe tycoon Viktor Pinchuk; leaders of the pro-presidential Social-Democratic Party of Ukraine (United); energy barons Viktor Medvedchuk and the Syrkis brothers; and members of the wealthy *donetski* clan of Donbas magnates, which includes Akhmetov. This process triggered a constant reduction of media independence, which in 2002 resulted in the introduction of censorship by means of *temnyky*, unofficial instructions issued by the Kuchma administration to the main media outlets "recommending" what events to cover and how.

Thus, oligarchs bought media outlets in the late 1990s, but not necessarily as financial investments. Instead, they did so as a means of accumulating political capital and enhancing their personal prestige. Aleksander Bohutskyi, general director of ICTV, noted that in the 1990s owning a TV channel or at least a radio station was a status symbol for Ukrainian businessmen.⁶²

Media-political relations changed after the Orange Revolution in 2004–5, which brought Viktor Yushchenko to the presidency instead of Kuchma's designated successor, Viktor Yanukovich. Yushchenko canceled the practice of issuing *temnyky* and other forms of presidential control over the content of the media. The Orange Revolution elevated a new group of political elites; many of the oligarchs who had supported Kuchma had to withdraw—at least temporarily—from prominent roles in parliament, the government, or the state administration. Oligarchs who owned influential media shifted their focus to the profit-making component of their media portfolios. By the early 2000s, their television companies reached a break-even point, if not turning a small profit. From this moment onward, it is fair to use the term "marketization" to describe the Ukrainian TV business.

By the early 2000s, Ukrainian TV channels had begun to compete for revenue and operate as conventional businesses. The weakening of state control over the media and the growing marketization (at least in the field of broadcasting) did not, however, lead to their independence from political and economic interests.

On the one hand, after the Orange Revolution newspapers and TV channels allowed far more criticism of the government and leading politicians than in the Kuchma era. On the other hand, the Ukrainian media's dependence on politics (and economic interests) did not go away in 2005; it merely changed in form. If, during Kuchma's presidency, the media published materials propagating the policies of the president and the government and remained silent about their misconduct because they were forced to, under Yushchenko they began to praise political leaders or criticize their rivals for pay.

In the search for profits, the owners of the Ukrainian media did their best to attract any type of advertising. Starting in 2006–7, *jeansa* (hidden advertising) became a very common sight in Ukrainian newspapers and on TV channels. Incessant and fierce rivalries for political power between oligarchic clans conditioned the popularity of political *jeansa*, especially before elections.

During the most recent electoral campaigns (the 2006 and 2008 parliamentary elections and the 2010 presidential elections), Ukrainian media monitoring organizations registered record amounts of *jeansa* in newspapers and on TV.⁶³ In 2008 pre-paid materials accounted for up to 80 percent of all media content.⁶⁴ Media experts reported that before the elections the media set fixed prices not only for official political advertising, but also for materials produced to order.⁶⁵ Before the 2006 parliamentary elections, for instance, the price for hidden political advertising on a national TV channel was 2,500 hryvnias (about \$495) per minute, whereas a twenty-minute talk show on a low-rated TV channel cost 30,000 hryvnias (about \$5,940).⁶⁶ One could contact an editorial office and order not only a “promotional story” about a candidate or a “discrediting story” about the candidate's rivals, but also something more significant. According to media expert Otar Dovzhenko, one top-rated national TV channel offered a “loyalty package” guaranteeing positive coverage of a candidate, regular appearances of the candidate on the air, blockage of critical materials launched by the candidate's rivals, and even the maximum reduction of materials about other candidates; this package could be purchased in 2006 for around \$2–3 million.⁶⁷

Ukrainian media experts have described the period of *jeansa* dominance from 2005 to 2010 as a time when

“censorship by the authorities” was replaced with “censorship by money.” After the Orange Revolution, against all expectations, the media did not become public watchdogs or platforms for debate on issues of public interest, but instead were merely mouthpieces for big business and politics.

Moreover, while the oligarchs adopted a more commercial approach to programming, they continued to use the media for their own political schemes. The best-known example is the “war” that Inter TV waged against then–prime minister Yulia Tymoshenko in 2009 as part of a conflict around the gas supply business between one of the channel's owners and the prime minister's political group, the so-called Bloc of Yulia Tymoshenko.⁶⁸

The “Orange period” of relative press freedom ended in February 2010 when Viktor Yanukovich won the presidency. The new president's team implemented a return to centralized control over the media, as practiced under Kuchma. However, their policy is more sophisticated in that it takes into account the mistakes made by Kuchma's advisers. For example, whereas the Kuchma administration distributed its *temnyky* by fax or e-mail (which facilitated disclosure by the media community), today's government instructions are communicated to the media by telephone or in private to avoid leaving a paper trail. However, the changed character of TV news programs, which have become uniformly uncritical of the president and the ruling coalition, indicates that the content of private media is again being orchestrated from above.

Reports by media monitoring and research organizations confirm that today's information programs in Ukraine are much like those in Kuchma's (and even in Soviet) times: They are full of government propaganda and manipulations, and the performance of power-holders is either covered positively or (in the case of unpopular decisions) not mentioned.⁶⁹ This shift in political coverage, affecting both state and private media, occurred immediately after President Yanukovich came to office. Reporters at private TV channels reacted to the pressure exerted on their editorial offices by issuing public statements on censorship and taking other organized actions. However, the industrial magnates who own the channels did not protest the infringement of their media independence. As long as their main business interests (which lie outside the media sector) are not troubled, they readily adjust the editorial policies of their channels to the demands of current political leaders.

External ownership of media, the predominant form in Ukraine, significantly hampers the independence and pluralism of the media. The media owned by oligarchs

serve at best as a mouthpiece for business oligarchs and political groups and have little in common with the democratic functions of a free press. The changes that have taken place in Ukrainian media since Yanukovich's victory in the 2010 presidential elections suggest that having the media concentrated in the hands of a few external owners considerably helped the Yanukovich team to curb the relative independence of the media.

Russia experienced a similar reverse development in the early 2000s that established centralized state control over the most significant media, further suggesting that external media ownership may facilitate the process of reversing the democratization of the media in post-communist countries. In the 1990s, Russia owed the relative pluralism and independence of its media to their ownership by several oligarchs whose interests did not always coincide with the interests of the Kremlin and who used their media outlets to criticize the government and further their economic and political goals. In the early years of his presidency, Vladimir Putin methodically attacked the media empires owned by his critics and redistributed their holdings among state-controlled businesses or oligarchs loyal to the Kremlin.⁷⁰ For example, Gazprom, a state-controlled gas monopoly, acquired the popular nationwide NTV channel owned by Vladimir Gusinsky, whereas ORT, the TV channel with the widest reception area in Russia, passed from Kremlin critic Boris Berezovsky to Kremlin-connected Roman Abramovich.⁷¹ These high-profile cases cowed other independent media, which began to self-censor content and avoid challenging the regime, practices now widespread among journalists in Russia. Today's Russian media are obedient servants of the regime, manipulating public opinion in the interests of the Kremlin.

Another pernicious effect of external ownership is corruption, especially among journalism professionals. Journalists employed by external media owners become accustomed to pleasing their masters rather than meeting the public need for information or striving to act in the public interest. Studies of the culture of journalism in Russia, where external media ownership is common, show that journalists there perceive their profession as "a type of PR, working for the interests of influential groups and persons in politics and business."⁷² Pulled into the clientelist orbits of their patrons, they serve particularist interests and not the interests of society at large.⁷³ They "consider venality and professionalism to be of the same order" and judge fellow journalists not on the basis of ethics but by their ability to earn money.⁷⁴ Professional attitudes of this kind impede the democratic transforma-

tion of the media but seem quite compatible with a reverse movement toward centralized control of the media.

Karol Jakubowicz describes the appropriation of the media market by oligarchic groups in some post-communist Central and Eastern European countries as a "re-monopolization." In his view, abolition of state media monopolies (de-monopolization), media differentiation, democratization, and professionalization of journalists constitute the minimum of what would ensure qualitative change in Central and Eastern European media as compared to the situation under communist rule.⁷⁵ In some countries, such as Poland, the Czech Republic, Hungary, Slovenia, and Estonia, the process of de-monopolization was relatively successful and resulted in the creation of a developed media market with diverse, privately owned outlets independent both financially and generally.⁷⁶ In many of the former Soviet republics, the media were in fact "re-monopolized" by media groups headed by oligarchs closely associated with—or part of—the political elite. Instead of gaining independence, the media became dependent on political-economic elites that use the media for personal political and economic purposes.

Concentration of Ownership. Ukrainian media share with the media in other Central and East European countries a tendency toward concentration of media ownership. The major owners on the Ukrainian media market own media "empires" that encompass TV and radio, newspapers, and other kinds of outlets. Rinat Akhmetov owns the high-rating national TV channel "Ukraine," the national daily *Segodnya*, the Internet portal Segodnya, a printing house in Vyshgorod, and a number of local media outlets in the Donbas. Viktor Pinchuk is the owner of four national TV channels—ICTV, STB, Novy, and the M1 music channel, the largest-circulation daily *Fakty i komentarii* the publishing house Ekonomika (newspaper *Delo*, and magazines *Investgazeta* and *Marketing Media Review*), and other media. Ihor Kolomoysky owns the national 1+1, TET, and Kino TV channels, several newspapers and magazines, is a co-owner of the UNIAN news agency, and in 2010 extended his media empire to the media holding Glavred, which includes several Internet sites and news outlets.⁷⁷ The broadcasting sector of the Ukrainian media is divided between four financial-political groups: the InterMediaGroup group, led by Khoroshkovsky, currently the head of the Security Service of Ukraine,⁷⁸ and the groups owned respectively by Akhmetov, Pinchuk, and Kolomoysky.

The high concentration of the Ukrainian media market means that several large media corporations receive

the lion's share of the advertising "pie." For example, in 2009 the advertising revenue of the national TV channels totaled 2.1 million hryvnias, whereas Khoroshkovsky's InterMediaGroup (TV channels Inter, NTN, K1, K2, and Megaspot) and Pinchuk's StarLightMedia, accrued almost 1.6 million hryvnias. This means that just two media players in the Ukrainian TV market obtained 75 percent of the total advertising revenue.⁷⁹

The media market in Ukraine is subject to anti-trust legislation, but in practice media monopolies are not regulated. The government's anti-trust agency is unable to effectively combat the monopolization of the media market.⁸⁰ Ukrainian media moguls conceal their ownership of the media with the help of offshore entities and figureheads. At the same time, there is no legal provision for more transparent media ownership, and attempts to draft such a law have, to date, not proved successful. As a result, the process of media concentration does not come up against any significant government barriers.

Media concentration is harmful for at least for two reasons. First, it hampers the diversification of programming. In Ukraine, where the main TV channels are owned by four large corporations, airtime is filled with the same kinds of product—cheap Russian soap operas, American shows, Russian comedies and gala concerts, and national talent shows. Second, it endangers political pluralism. This becomes obvious in situations when the political interests of the media owners coincide, at least temporarily. Under Yushchenko's presidency, the first alarming case of this kind took place during the Kyiv mayoral elections in 2008.

Leonid Chernovetsky, who was seeking another term as mayor, was for various reasons a convenient candidate for the owners of all the main TV channels. No wonder, then, that the channels waged a campaign on his behalf. Special "capital city" segments added to the major news programs did little more than advertise Chernovetsky's campaign. At the same time, news programs almost never mentioned the candidates running against him. There was also no critical coverage of Chernovetsky's performance in office, although his personality and his policies as mayor gave plenty of opportunity for such a critique (during his first term in office, for example, Chernovetsky was twice denounced as "Press Enemy No. 1"). The editorial offices of the major national TV channels claim that they received strict orders "from above" (i.e., from their top managers or owners) to not criticize Chernovetsky. They were told that this order "was the decision of shareholders."⁸¹ No journalists attempted to disobey it. The situation led Viktoria Syumar, director of the Institute of Mass

Information, to concede: "It was we, the journalists who got Chernovetsky re-elected."⁸²

The Kyiv mayoral elections serve as proof that, even when state pressure is reduced, concentrated ownership may have grave consequences for independent, plural media. The whole history of media oligopoly in Ukraine, enriched recently by the evident strengthening of centralized control of the media under President Yanukovich, argues in favor of the thesis that the concentration of media ownership in the weak democracies of post-Soviet countries is an important obstacle to the democratization of the media.

The Russian Factor. Last but not least, the strong competition coming from Russian newspapers, radio, and TV channels weakens the Ukrainian media market and hampers its development. The Ukrainian versions of the Russian newspapers *Komsomolskaya pravda*, *Izvestia*, and *Argumenty i fakty* are very popular;⁸³ *Argumenty i fakty* is the second most circulated newspaper in the country (see Table 2). Russian TV channels are also popular. They are available in Ukraine via cable and satellite, and in some areas via terrestrial television (in U.S. usage, broadcast television). This is especially true for the eastern territories of Ukraine bordering with Russia and populated mostly by Russian-speaking inhabitants, as well as the south of Ukraine, also populated by Russian-speakers. In the Crimea, more than half the population gets its news from Russian TV channels.⁸⁴

Products of the Russian media industry get to Ukrainian audiences not only via Russian TV channels. Ukrainian TV schedules are heavily padded with Russian serials, reality shows, and gala concerts. Russian soap operas and comedy shows are constantly among the most popular programs in the Ukrainian TV ratings.⁸⁵ In comparison with the somewhat parochial domestic media product, the Russian TV industry offers programs of higher quality and variety. Ukrainian TV channels willingly purchase Russian programs and serials, first, because viewers like them, and second, because they are cheap. Since they usually come to Ukraine after having recouped their costs in the huge Russian market, their prices are much lower than the prices of Ukrainian product. This unequal competition undermines Ukraine's own media producers.⁸⁶

The presence of a stronger media market in the neighborhood that intrudes on a country's information space is typical of several other post-communist countries. It can be found, first, in the Balkan region, where the media of Macedonia, Montenegro, and Bosnia-Herzegovina face strong competition from Serbian and, sometimes,

Croatian newspapers, TV, and radio, and, second, in some former Soviet countries (Moldova, Latvia, Lithuania, Estonia), which experience the “intrusion” of Russian media into their markets. In all these cases, the neighboring media entering the country’s market are supported by a larger audience and a correspondingly larger advertising market, and thus compete with national producers under nonequal conditions.

What is special in this respect about Ukraine in comparison with other countries is the extraordinarily large scale of the neighbor’s presence in its media market. For example, whereas in Lithuania in 2007 the share of Russian programs, TV series, movies, and talk shows in the broadcasting time of major TV networks ranged from 1 percent to 31 percent,⁸⁷ in Ukraine it was and continues to be much higher. According to the State Committee of Television and Radio Broadcasting of Ukraine, up to 80 percent of the broadcast time of Ukrainian radio and TV channels is filled with non-Ukrainian product.⁸⁸ The lion’s share is Russian product. Even more dramatic is the picture of the book market in Ukraine. According to market research ordered by the Renaissance Foundation in 2007 as well as assessments by experts from the Ukrainian Publishers and Booksellers Association, about 85 percent of the books sold in Ukraine are produced in Russia.⁸⁹

State Mechanisms to Pressure the Media Market and Commercial Media

No analysis of the Ukrainian media market would be complete without some discussion of the role of the state. Although state-media relations in Ukraine are unstable and largely depend on oligarchs who exercise influence in this area by taking part in parliamentary law-making or by appointing their allies to the state bodies that oversee the media, it is worth examining the tools for regulation of the media market that the Ukrainian state has at its disposal.

Like several other post-communist countries, the Ukrainian state plays a constraining rather than enabling role in the development of the media market and the enhancement of independent, privately owned media. Ukraine’s foremost politicians formed their views on the relations between media and politics during the Soviet epoch; they demonstrate little knowledge of or interest in the essence of freedom of speech and prefer to treat the media as servants of the political interests of power-holders. Moreover, the state does not simply hamper the privatization of state- and municipally owned media, leaving them at the disposal of national or local govern-

ments, but it also applies different mechanisms to control the commercial sector of the media.

Selectively Enforced Laws. One such mechanism is media legislation. As exploited by those who hold power, laws pertaining to the media are often transformed into a tool for disciplining disobedient media. According to the Report of the Moscow Media Law and Policy Institute (2007), Ukrainian media legislation is the second most developed, from the standpoint of legal guarantees of mass media freedom, among the countries of the former Soviet Union, including the Baltic states. However, the authorities employ legal drawbacks and loopholes to impede media independence and democratic performance. For example, in summer 2009 the Ukrainian parliament amended the national criminal code to add the possession of pornography to the master list of crimes. The amendment made it a criminal offense to electronically or physically store literature, images, or other objects of “a pornographic nature” intended for sale or distribution, but does not clearly define what constitutes “a pornographic nature.” Human rights activists and lawyers in Ukraine fear that the law will be misused by the police to blackmail individual citizens and editorial offices.

The next shortcoming of Ukraine’s media legislation is that some of it is vague or contradictory, which opens up the possibility for arbitrary decisions by judges and regulatory bodies. For example, the National TV and Radio Broadcasting Council (NTRBC) often uses the language quota regulations to punish broadcasters. These regulations limit the amount of broadcasting in languages other than Ukrainian, but they are inconsistent. For example, Article 10 of the law governing the use of languages in TV and radio broadcasts treats the Ukrainian quota differently in two separate paragraphs. Whereas Paragraph 3 requires that every non-Ukrainian film or program be dubbed in Ukrainian, Paragraph 4 establishes a 75 percent quota on Ukrainian language programming for national broadcasters, which means that it is acceptable that some non-Ukrainian programs (as much as 25 percent of total broadcasting time) are not dubbed.⁹⁰ The inconsistency of these regulations gives the NTRBC an opportunity to enforce the law selectively.

What is more, the media legislation is frequently changed, which causes additional problems for media organizations and makes them vulnerable to state pressure. According to the Konrad Adenauer Stiftung Democracy Report for 2008, Ukraine’s media law was modified and supplemented as many as ten times during the preceding five years.⁹¹ In 2008, for example, the

NTRBC introduced new provisions on production and language quotas in broadcasting.⁹² These raised the quota of Ukrainian-language broadcasting from 75 percent to 80 percent. Editorial offices were troubled, because it was difficult to follow the new requirements on startup: Broadcasters calculated that to meet the new NTRBC demands, they had to spend an additional \$200 million to translate foreign-language programs (mostly Russian) into Ukrainian.⁹³

However, the language quota change in license provisions and the subsequent NTRBC monitoring of national TV channels did not mean that every channel with a broadcast schedule that did not satisfy the 80 percent Ukrainian-language rule was deprived of its license. Channels 1+1, NTN, Ukraine, and Novy, according to the NTRBC monitoring, did not fulfill the Ukrainian-language requirements, but they were not punished at all. The sanctions (or, to be more precise, a warning on sanctions) were received only by the Inter channel, which was not loyal to then-president Victor Yushchenko. As the president had *de facto* control of the NTRBC up to mid-2009, he was able to use amendments to discipline broadcasters.

Regulatory and Monitoring Bodies. The institutions that regulate and monitor the media are another tool employed by the state to control the media market. Marius Dragomir, in his study of media reforms in post-communist Europe,⁹⁴ shows that post-communist governments employ two main strategies to exert influence upon media via institutions: they either adapt existing broadcasting councils whose real task is to regulate the activities of TV and radio in the name of the public good, or they establish new monitoring institutions similar to the censorship committees of the communist era.

For Ukrainian politicians, the broadcasting council is an important means of controlling and regulating the media market. The National Television and Radio Broadcasting Council was created in 1994 as a public regulatory body, with a remit to supervise broadcasters and grant licenses. However, from its early days, the NTRBC was accused of manipulating the procedures for awarding and canceling TV and radio licenses to further the political and economic interests of its members or the political groups backing them. This was claimed, for example, in thirty lawsuits filed by journalists in 2002.⁹⁵ In the first years of Yanukovich's presidency, the NTRBC repeatedly proved to be an instrument of political control over broadcasting. For example, in June 2010 it forwarded a court decision to withdraw frequencies awarded to the opposition-oriented channel TBi on the eve of the presi-

dential elections.⁹⁶ Later, in June 2011 it refused to award a license for satellite broadcasting to TV channel Info-24, founded by managers and journalists of TBi.

At the time of writing this article, the licensing of broadcast media is a very nontransparent and shadowy process, just as it was in the late 1990s and early 2000s. According to many broadcasting managers and editors, the NTRBC has become the "traffic cop" of Ukraine's television and radio space,⁹⁷ a disparaging nickname given the poor reputation of its bribe-seeking namesakes in the Ukrainian State Automotive Inspection. Since the licensing regulations are unclear and ambiguous, it is hard to know what conditions must be met in order to get a license and exactly what actions are in violation of the licensing requirements. Besides, the NTRBC itself very often either fails to punish license violations or penalizes only arbitrarily selected violators.

This leads to a situation where practically every broadcasting company bends the regulations to some degree. Consequently, the regulatory power of the NTRBC is a convenient tool for the punishment of dissenting broadcasters. As *Telekytyka* magazine characterized the state of affairs, "as far as every channel is violating the law or its license to a certain extent, the NTRBC may be a universal tool of influence on television businesses like the tax administration or fire inspectors," government agencies traditionally used to harass businesses.⁹⁸

As mentioned previously, some post-communist states also influence the media through new monitoring entities created officially for some respectable purpose, such as the protection of state secrets, but in fact fulfilling the functions of censorship bodies.⁹⁹ The recent history of post-communist countries brings several examples of such institutions: the Inspection Agency of State Secrets in Uzbekistan, which reviews and approves the publication of news stories; the Turkmen State Committee for the Protection of State Secrets, which *de facto* screens critical and opposition views in the media; the State Inspectorate to Protect the Freedom of the Press and Mass Information at the Russian Ministry of Press and Mass Information, which functions as a censorship body.¹⁰⁰ In Ukraine, this tendency is exemplified by an institution named the National Expert Commission for Public Moral Protection (NEC), which is progressively becoming a powerful means to execute governmental control over media.

The NEC was created by the Cabinet of Ministers of Ukraine in November 2004 shortly before Yushchenko was elected president. Its declared aim was "to ensure the realization of state policies in the sphere of the protection of public morals."¹⁰¹ The Cabinet of Ministers appoints

the head of the NEC¹⁰² and approves the composition of its membership. The duties of the NEC include supervision of adherence to the Law on the Protection of Public Morals, monitoring of TV, radio, video, and other information products with regard to their compliance with the regulations on protection of public morals, and prevention of the distribution of materials containing scenes of violence and pornography.¹⁰³ The Law on the Protection of Public Morals, among other things, bans the production and distribution of materials propagating war and hatred on religious or national grounds, fascism and neofascism, and harmful habits such as alcoholism, addiction to drugs or toxic substances, and smoking.

The NEC was initially conceived as an expert agency whose main function was to analyze media products based on morality guidelines, but since 2008 it has become an influential media-controlling body. For example, it effectively prohibited further airing of *The Simpsons* by issuing a verdict that the cartoon series might provoke juvenile delinquency. Based on its evaluation, the National Television and Radio Broadcasting Council warned TV channels not to air *The Simpsons* under penalty of a fine or even license withdrawal. NEC complaints similarly led to the cancellation of several comedy programs and serials, including a Russian adaptation of the American sitcom *Married . . . with Children*. It also prohibited the screening of Sacha Baron Cohen's film *Bruno* and seized copies of the Ukrainian novel *The Woman of His Dreams* by the winner of the Shevchenko Prize, Oles Ulianenko.

What appears to be even more significant about the NEC is that its full potential has not been realized, but could be activated under the prevailing circumstances. The NEC is not independent, but is subordinate to the government and hence can be directly used for political purposes. The legislation that regulates it, the Law on the Protection of Public Morals, contains a number of vague clauses concerning freedom of expression and information distribution.¹⁰⁴ Some of them run counter to Article 10 of the European Convention on Human Rights.¹⁰⁵ According to Professor Dirk Voorhoof of Ghent University, who carried out an expert analysis of the law for the Council of Europe in 2004, this legislation is unclear and ambiguous and has a very wide purview of application. Consequently, the NEC has the potential to become a true weapon against independent media.

Disregard for the Rule of Law and Failure to Protect Media Independence

A specific feature of the Ukrainian media market and the environment in which it exists is a profound disregard for

the rule of law. As a result, although Ukrainian media law is considered to be rather liberal and well developed, it does not ensure the independence of commercial media and protect them from political pressure.¹⁰⁶ Ukrainian legislation contains such advanced elements as a law on access to public information, legal provisions on editorial independence, and civil (not criminal) responsibility for defamation, but the democratizing effect of these laws is hampered by serious enforcement problems. Ukraine's media laws and regulations are routinely violated by state officials, by media regulatory bodies, and by private media enterprises and their owners.

The government itself displays a disregard for the law. For example, in 1999 President Kuchma refused to appoint his four members of the NTRBC because he disliked the members appointed by the parliament. The NTRBC, in consequence, was unable to function for more than a year—until the parliament gave in and appointed four other people, after which the president finally appointed his quota of members.¹⁰⁷

Equally dramatic is the situation regarding parliament's adherence to the law. As a case in point, in 2008–9 the term of office of two members of the NTRBC expired.¹⁰⁸ They had both been appointed under the parliamentary quota, and parliament was required by law to appoint replacements within two months.¹⁰⁹ But as parliament never appointed the new members, the “old” ones continued to serve until the beginning of 2010, rendering as questionable the legality of NTRBC actions taken during that period.

The decisions of the NTRBC are often in conflict with the law. Not only does it award and renew licenses to companies that violate licensing agreements, but it also tolerates the operations of unlicensed broadcasting companies. In 2008, the NTRBC turned a blind eye to a gross violation of the licensing regulations—the so-called exchange of logos between Megaspport, a national terrestrial sports channel, and K1, which broadcasts only in thirteen cities (plus cable broadcasting). The license holders of these channels, in fact, exchanged not only logos, but also frequencies and licenses. The Megaspport channel, licensed to broadcast for a national audience, switched to a narrower broadcast signal, giving its place to K1. The NTRBC took no action against, once more demonstrating that it is governed not by the law but by other considerations.

Media companies in Ukraine also often break the law. The most widespread infringements by private broadcasters include breaches of license agreements, exceeding advertising limits, and violation of language quotas. Another common practice of media owners and management

is paying salaries “in envelopes,” a violation of the labor regulations.¹¹⁰ This is especially harmful for the independence of editorial personnel and individual journalists. When the size of a journalist’s salary is not a matter of public knowledge, the manager is free to pay less.

Disregard for the law has a very negative impact on the independence of the media. The law serves not so much to protect journalists and freedom of speech as to punish disobedient media. Media and journalists have little chance to defend their rights in courts. While there has been somewhat less violence against journalists since the great public outcry about Georgiy Gongadze’s murder and especially since the Orange Revolution, harassment and intimidation are still not rare, and these crimes are not properly investigated.¹¹¹ The most striking example is the lack of progress in the investigation of the Gongadze murder, but there are also a number of instances where the perpetrators of other crimes against journalists have not been convicted or sent to prison. According to Viktor Danylov, the director of the OGO Publishing House, “Crimes against journalists gain broad resonance in the media, but actually there are no completed investigations and prosecution of the guilty.”¹¹² The impunity of those who assault journalists has led to a state of permanent tension and fear among media professionals, making them resort to self-censorship.

Karol Jakubowicz considers inadequate separation of powers and disregard for the law to be the two most characteristic features of the so-called Type B countries (mainly former republics of the Soviet Union: Moldova, Ukraine, Russia, etc.), as opposed to the Type A countries, namely, the “established” new democracies of Central and Eastern Europe (Czech Republic, Hungary, Poland, Slovenia, Estonia).¹¹³ In Type A countries, “media wars” are conducted within the bounds of law, while in Type B countries, they are carried out irrespective of existing laws and institutions.¹¹⁴ This partly explains the different pace of media democratization in the countries of these two groups. Jakubowicz claims that effective rule of law is an indispensable condition for the establishment of media independence and autonomy. It is vital that the legal framework designed to protect media autonomy be respected by the media, political circles, and the state apparatus.¹¹⁵ Unfortunately, the current situation in Ukraine falls short of this demand.

Conclusion

The preceding discussion has analyzed the media market and media ownership in Ukraine from the standpoint of

their impact on media independence and pluralism. It indicates some commonalities and differences between the Ukrainian media market and the media in other post-communist Central and East European countries.

The analysis showed that the Ukrainian media system, like the media in Europe (and the rest of the world), are undergoing the processes of commercialization, tabloidization, and concentration of media ownership. What is specific to Ukraine, however, is that the concentration of market ownership is predominantly conditioned by political and not just commercial interests.

The comparison of the Ukrainian media market with the markets in Central and Eastern Europe showed that Ukrainian commercial media have much more in common with the media of south European post-communist countries (Albania, Bulgaria, Macedonia, Montenegro, Romania, Serbia) than with the media in Poland, Hungary, or the Czech Republic. Compared to the “advanced” new democracies of Central and Eastern Europe, Ukraine has not managed to create a large and developed media market, where the high profits of media enterprises can ensure their independence from political interests. Like the countries of Southern Europe and some post-Soviet countries (excluding the Baltic states), Ukraine has an underdeveloped media market with a low advertising budget. As a result, most of its private media are unable to cut the links that make them economically dependent on political interests. As is also the case in the countries mentioned above, the Ukrainian market hosts too many media, further impairing both their profitability and their autonomy. The market “overpopulation” in all of these countries has essentially the same cause—media owners set up or maintain media businesses not in quest of financial success but to exercise political influence.

What is specific to Ukraine, however, is the predominance of oligarchs as owners of its media. These industrial-financial magnates are “external” to the media industry, because their main business interests are not in the media but in steel, coal, energy, banking, and other spheres. They see media ownership as a means to further their economic interests, which depend extensively on political decisions. They use the media to gain political weight in order to influence these decisions. Oligarchic ownership of Ukraine’s major media considerably constrains their autonomy. Because they are politics-driven rather than market-driven, Ukraine’s most important media enterprises are anything but politically independent. Significantly, oligarchic ownership of the media enhances the risk of introducing centralized control over the media. When a media market is divided between a

few owners highly dependent on politics, it is easier to get their compliance to serve a ruling political group than would be the case if media owners were more numerous and more independent. The past decade of media history in Russia and recent events in Ukraine give convincing proof of this.

The Ukrainian media market differs from media markets in Central and Eastern Europe in two other ways. First, the privatization of the media is still incomplete and thus there are a large number of state-owned and municipal media. Second, it is in competition with the powerful presence of a neighboring (Russian) media market supported by a larger readership and a larger advertising budget. Both these features distort market competition in Ukraine and reduce the sustainability of the majority of its players.

What is common to the media in Ukraine and such countries as Bulgaria, Serbia, Romania, or Albania is that in all of them the state makes recurrent attempts to exert pressure on private media. The means of influencing the media market in Ukraine and these other countries include flawed and frequently changing media legislation and licensing policies, and, in addition, the widespread misuse of the law by the government.

An important obstacle to the development of a strong Ukrainian media market is the general disregard for the law in the country. The unhealthy situation whereby the law does not protect freedom of the press, but is used to punish of critically minded media, aggravates the condition of the national media market and restricts the independence and pluralism of the opinions voiced in it.

Notes

1. S. Hrvatin, L. Kučić, and B. Petković, *Media Ownership Impact on Media Independence and Pluralism in Slovenia and Other Post-Socialist European Countries* (Ljubljana: Peace Institute, 2004).

2. Following Katrin Voltmer's argument, we consider that the role of the state vis-à-vis the media is not necessarily antagonistic and lack of state regulation does not necessarily mean more freedom for the media. On the contrary, as will be shown below, a weak state unable to pass and enforce laws providing freedom to the mass media may be detrimental for the development of independent media. See Katrin Voltmer, "Comparing Media Systems in New Democracies: East Meets West," *Central European Journal of Communication* 1 (2008): 37–38.

3. Karol Jakubowicz, *Rude Awakening: Social and Media Change in Central and Eastern Europe* (Cresskill, NJ: Hampton Press, 2007); Karol Jakubowicz and Miklós Sükösd, "Twelve Concepts Regarding Media System Evolution and Democratization in Post-Communist Societies," in *Finding the Right Place on the Map*, ed. Karol Jakubowicz and Miklós Sükösd (Chicago: Intellect Books, 2008), pp. 9–40; Jane L. Curry, "Eastern Europe's Postcommunist Media," in *(Un)civil Societies: Human Rights and Democratic Transitions in Eastern Europe and Latin America*, ed. Rachel A. May, Andrew K. Milton, Marc Belanger, and Jane L. Curry (Lanham, MD: Lexington Books, 2005), pp. 139–61.

4. Peter Gross, *Entangled Evolutions: Media and Democratization in Eastern Europe* (Washington, DC: Woodrow Wilson Center Press, 2002); Jakubowicz, *Rude Awakening*; B. Dobek-Ostrowska and M. Głowacki, ed.,

Comparing Media Systems in Central Europe: Between Commercialization and Politicization (Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego, 2008).

5. Curry, "Eastern Europe's Postcommunist Media."

6. Dobek-Ostrowska and Głowacki, *Comparing Media Systems*; Karol Jakubowicz, "Post-Communist Media Development in Perspective" (2005), available at <http://library.fes.de/pdf-files/id/02841.pdf>, accessed September 21, 2011; A. Wyka, "On the Way to Dumbing Down . . . The Case of Central Europe," *Central European Journal of Communication* 1, no. 2 (2009): 133–47.

7. Zrinjka Peruško and Helena Popović, "Media Concentration Trends in Central and Eastern Europe," in *Finding the Right Place on the Map*, pp. 165–190; Andrea Czepek, Melanie Hellwig, and Eva Novak, "Introduction: Structural Inhibition of Media Freedom and Plurality Across Europe," in *Press Freedom and Pluralism in Europe: Concepts and Conditions*, ed. Andrea Czepek, Melanie Hellwig, and Eva Novak (Chicago: Intellect Books, 2009), pp. 9–22.

8. Peter Bajomi-Lazar, "The Consolidation of Media Freedom in Post-Communist Countries," in *Finding the Right Place on the Map*, pp. 73–84.

9. *Ibid.*, p. 78.

10. Alina Mungiu-Pippidi, "How Media and Politics Shape Each Other in the New Europe," in *Finding the Right Place on the Map*, pp. 87–100; Peter Gross, "Dances with Wolves," in *Finding the Right Place on the Map*, pp. 125–43.

11. Quoted by Gross in "Dances with Wolves," p. 128.

12. Gross, *Entangled Evolutions*.

13. B. Petković, ed., *Media Ownership and Its Impact on Media Independence and Pluralism* (Ljubljana: Peace Institute, 2004). See especially I. Londo, "Albania," pp. 39–60; T. Jusić, "Bosnia and Herzegovina," pp. 62–92; V. Popova, "Bulgaria," pp. 94–117; S. Malović, "Croatia," pp. 199–140; S. Trpevska, "Macedonia," pp. 285–320; M. Zadrina, "Montenegro," pp. 347–362; M. Preoteasa, "Romania," pp. 403–424; D. Đoković, "Serbia," pp. 425–46; G. Šipoš, "Slovakia," pp. 447–462; S. Hrvatin and B. Petković, "Regional Overview," pp. 9–38.

14. The independent Internet newspaper *Ukrainska Pravda* often criticized the policies of then-president Leonid Kuchma. Gongadze disappeared on September 16, 2000, after he left a colleague's apartment in Kyiv. His headless body was discovered in a forest 40 miles away from Kyiv two months later. At the time of writing this article, eleven years after Gongadze's disappearance, the official investigation of the crime is still open.

15. A. Onufriyenko and I. Mironova, "Televizionnyi rynek. Komu prinadlezhit Ukraina" (Television Market: Whom Ukraine Belongs to), *Kommersant* (December 22, 2008), available at www.kommersant.ua/doc.html?docId=1098087/, accessed September 21, 2011.

16. S. Kalinina, "Business Sense with Svetlana Kalinina," *Kyiv Post* (August 21, 2009), available at www.cetv-net.com/en/press-center/media/94.shtml, accessed September 21, 2011.

17. *Ibid.*

18. Horizon Capital, "Overview of Ukrainian TV Broadcasting Market," available at www.horizoncapital.com.ua/files/sectors/Ukr.%20TV%20Broadcasting%20Market.pdf, accessed September 21, 2011.

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31. See, for example, Freedom House, *Freedom of the Press* (2010), available at www.freedomhouse.org, accessed September 21, 2011.

32. Marta Dyczok, "Was Kuchma's Censorship Effective?" *Europe-Asia Studies* 58, no. 2 (2006): 215–38.

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38. For example, the state-owned UT-1 is only seventh in the broadcast ratings (GfK Ukraine, June 2011).

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40. There are several exceptions to this rule, but they mainly concern popular television presenters and entertainers who get unusually high fees from private TV channels.

41. See, for example, IREX, *Media Sustainability Index (MSI) Europe and Eurasia, 2006/2007: Ukraine*, 2006/2007, p. 180, available at www.irex.org/system/files/MSIE06_ukraine.pdf, accessed September 21, 2011; IREX, *Media Sustainability Index (MSI) Europe and Eurasia, 2008: Ukraine*, 2008, pp. 202–3, available at www.irex.org/system/files/MSIEE08-Ukraine.pdf, accessed September 21, 2011.

42. Consider, for example, Ukrposhta's refusal to deliver the paper *Litsa Dnipropetrovsk* because of its investigation of the mayor of Dnepropetrovsk. See IREX, *Media Sustainability Index (MSI) Europe and Eurasia, 2008: Ukraine*, 2008, p. 203, available at www.irex.org/system/files/MSIEE08-Ukraine.pdf, accessed September 21, 2011.

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44. See, for example, Angelika Wyka, "On the Way to Dumbing Down," in Marius Dragomir, *Fighting Legacy: Media Reform in Post-Communist Europe*, Atlantic Council of the United States Senior Fellows Publication, pp. 35–40, available at www.acus.org/files/publication_pdfs/65/2003-08-Fighting_Legacy_Media_Reform_in_Post-Communist_Europe.pdf, accessed September 21, 2011 pp. 35–40; Miklos Sükösd, "Democratic Transformation and the Mass Media in Hungary: From Stalinism to Democratic Consolidation in Hungary," in *Democracy and the Media: A Comparative Perspective*, ed. R. Gunther and A. Moughan (New York: Cambridge University Press, 2000), pp. 151–52.

45. Sükösd, "Democratic Transformation and the Mass Media in Hungary," p. 152.

46. Dragomir, *Fighting Legacy*, p. 40.

47. Finance.ua, "Poroshenko kupyv zhurnal 'Korespondent'" (Poroshenko Has Bought *Korespondent* Magazine) (April 13, 2011), available at <http://news.finance.ua/ua/~1/0/all/2011/04/13/234902/>, accessed September 21, 2011. Until 2009, Jed Sunden also owned the quality English-language newspaper *Kyiv Post*, one of the first truly independent newspapers in Ukraine. In July 2009, he sold the paper to Mohammad Zahoor, a United Kingdom citizen and an owner of the ISTIL Group. In 2008, because of the economic crisis, Sunden also closed two news outlets he had only recently founded: the metro daily *15 Minutes* and the weekly news magazine *Novynar*.

48. For example, 29 percent of the shares of Inter, the TV channel that leads the Ukrainian broadcast ratings, are held by the Russian state company Russian Channel One. The main investor in TBi TV channel is a disgraced Russian oligarch, K. Kagalovskii.

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51. GfK Ukraine (June 2011).

52. The information on the top-four Ukrainian dailies comes from Konrad-Adenauer-Stiftung, *Ukrainian Media Landscape—2010*, available at www.kas.de/ukraine/ukr/publications/23004/, accessed September 21, 2011.

53. See "World's Billionaires List by Forbes" (March 2011), available at www.forbes.com/wealth/billionaires/list, accessed September 21, 2011.

54. For detailed analysis of the phenomena of oligarchs in Ukraine and their relationships with the state, see Anders Åslund, *How Ukraine Became a Market Economy and Democracy* (Washington, DC: Peterson Institute for International Economics, 2009).

55. Olessia Koltsova, *News Media and Power in Russia* (New York: Routledge, 2006), p. 75.

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59. See, for example, John Keane, *The Media and Democracy* (Cambridge, UK: Polity Press, 1991), pp. 1–51.
60. Unfortunately, the Ukrainian situation is one more proof for the thesis of Katrin Voltmer that in new democracies private ownership of the media does not ensure their independence from politics, because in the conditions of an underdeveloped advertising market, influential actors—politicians and oligarchs—purchase media outlets to control them and further their political interests (“Comparing Media Systems in New Democracies,” p. 37).
61. For an overview of appropriation of Ukrainian media by oligarchs, see Dyczok, “Was Kuchma’s Censorship Effective?” p. 222; Kulyk, “Dyskurs ukraïnskykh medii,” pp. 202–6.
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