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THE COMMERCIALIZATION PROCESS OF ROMANIAN POST-COMMUNIST TELEVISION
The movement for an independent television and its consequences

1. INTRODUCTION

The media systems of post-communist societies became subjected to an increase number of historical processes, including commercialization described as the process of deregulation and “liberalization” of the market, in a short period of time immediately after communism fell. When he refers to the steps of post-communist media transition, from a political control system to a democratic one, Mihai Coman (one of the leading researchers of the post-communist Romanian media system) quotes K. Jakubowicz without making reference to commercialization. He identifies the following processes: winding-up of the monopoly of the State on the media, defining the legal framework (constitutional guarantees and special laws) and democratization of the political life and the limitation of political interferences, and the professionalization of the media. While, in 2005, Karol Jakubowicz identifies at least eight processes or clusters of complementary or contradictory processes of change in the post-communist media systems: de-monopolization and (partial) re-monopolization, commercialization and marketization of media systems, a change in media freedom and independence, democratization, pluralization and diversity in the media, professionalization of journalists, development of public service broadcasting, internationalization and globalization. To be noted that commercialization and marketization represent a key process, being placed so high on the list of the transformation processes of media systems in post-communist countries.

The failure of communism not only has led to the collapse of rules and functioning systems in Central and Eastern Europe, but also led to the appearance of free and chaotic mass media systems characterized by the blurring of the borders between public, state, commercial, independent and private broadcasting. Mixing commercialism with politics and public control with private profit is a consequence of the mixed political environment during the post-communist transition.

The audiovisual market developed in a rather different pattern than the print media throughout the first decade. The development of a private sector was slower because it was an area in which the issue of regulation and political control played a significant role. Post-communist governments and politicians tried to maintain the control over this

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medium. Therefore, if we want to understand the process of opening up national broadcasting market to new forms of ownership and regulation it should be taken into consideration the following three concepts: “independent”, “private” and “commercial”\(^3\). Commercial television is not necessarily independent, and private stations are not always independent or commercial.

On that account, the transformation process of post-communist media systems was characterized by repeated media wars and a continuous struggle against the central control, and for independent broadc castings and de-monopolization of the public televi sions. This fact is illustrated by the Hungarian and Romanian media wars around public service broadcasting de-monopolization during the 1990s; the famous strike of public television personnel against government intervention in the Czech Republic (2000) as well as similar developments in Slovakia; the campaign against changes in Public Station Broadcasting law which threatened its political subordination in Slovenia (2005) or the protests in Poland against pressure were put on public and independent media\(^4\).

Media market analysts and researchers (Adina Baya, Mihai Coman, Peter Gross) consider that private initiative in the Romanian television industry took form after 1992 when the new audio-visual law allowed the independent and private agencies to apply for licenses from the Ministry of Communication\(^5\). Furthermore, they consider that the real phase of commercial television has begun after 1994\(^/\)5, when PRO TV channel started broadcasting\(^6\). However, to understand the commercialization process it is very important to know the premise and context in which it took place the entrance of private actors into the Romanian TV national market. In this respect, this research is about restoring the course of events or about finding the facts necessary to answer the following questions: What was the role of Society for the Organization of an Independent Television (SOTI) and the consequences of its protest activity on the commercialization process?

2. SOCIETY FOR THE ORGANIZATION OF AN INDEPENDENT TELEVISION (SOTI)

In Romania, the collapse of the communist regime in December 1989 was followed by the abolition of the state’s official monopoly over the media. Unlike the print media market, which was fairly decentralized and started privatization immediately after December 1989\(^7\) – the publisher of Romania Liberă (Free Romania) newspaper was the first licensee registered as owning a private business in post-communist Romania, in

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\(^6\) In Eastern and Central Europe, the first national commercial television channels were launched, as follows: in Czech Republic in 1994, in Poland and Romania in 1995, in Slovakia in 1996 and in Hungary in 1997.

\(^7\) Coman, Mass-media in Romania. The written press was one of the primary sectors to mark the switch from a centrally planned economy to a free market economy witch started advancing towards privatization and pluralization. In the first post-communist decade the competitive print press market was created through the privatization of former communist outlets and through the creation of new ones. However, the state continued during the 1990s to enjoy the monopoly of printing facilities and distribution, which allowed it to control the media by managing production costs.
February 1990 – the audiovisual market remained significantly more centralized. Broadcasting was slower to privatize, because of the greater centralization of the audiovisual outlets, following the communist pattern, as well as the consequent difficulties in liberalizing this market as opposed to the print one.8

Romanian Television (RTV) changed its name to Free RTV, but it not became independent. For example, the leadership of state television refused to provide live coverage of the first major anti-National Salvation Front demonstration held in Bucharest, on January 28th 1990, which challenged the new regime’s legitimacy. From this moment, for more than four years, journalists and their unions, media managers and civic groups fought with government for an independent television and for the de-monopolization of the national broadcasting market, in a real media war. Threats, intimidations, campaigns aiming at compromising and denouncing their adversaries turned the press into a political weapon and the journalists into actors of the political fight, representatives of the two camps: the government and the opposition.

The new government had strict and strong control over national television, the television being considered not only a source of information but a source of power too. The state-owned Romanian Television continued to have a monopoly on national broadcasting, before the elections on May 20th 1990, any licence for new radio or television stations requested by individuals or groups was approved. The official argument was the need to adopt the new law on broadcasting. The Romanian Ministry of Communication was the one which would decide on the broadcasting licenses.

In response, the opposition – Romanian “civic-democrat” movement “University Square Phenomena” (April-June 1990)9 – asked for freedom of information circulation insurance. Article 3 of the 27th April Proclamation provided the repeal of the law by which television and radio were subordinate to the government and the approval for independent radio and television stations10. However, it did not refer to a request of a private or commercial station.

The government provided resistance and refused awarding of licenses for the establishment of an independent national television networks. The Romanian president, Ion Iliescu, in his first press conference after the May 1990 elections, made a general political statement on this topic. He stated that television is too important and powerful to be given to private interests, and the state is the best guarantee that television will be used in an equitable way for everybody.11

Civil society internal pressure over the Romanian government was doubled from an external one. Petre Roman government had to face the informal conditions the USA would request for reinstating the Most Favoured Nation status to Romania. James A. Baker, in his speech delivered on February 7th 1990 at the Charles University in Prague, asserted that United States was ready to provide assistance in the development of independent media in the Eastern and Central European region. In the summer of 1990, a number of training programs of Eastern European journalists have been released. In ad-

8 Baya, The Concentration, 12.
9 For more information see Dorin M., România de la communism la mineride (Romania from Communist to Miners’ Social Movement); Bucharest: Romanian Cultural Institute, 2006.
11 Matei, Politics of Television Privatization, 7.
dition, the US State Department announced, on August 30th 1990, the new International Media Fund (IMF) which allocates money for the establishment of independent media institutions in the region\textsuperscript{13}.

Even more, for being accepted to the Council of Europe, Romania would be required to relinquish its monopoly on television and would assure conditions for independent private stations, among other conditions\textsuperscript{14}.

In this context, the strong control of the state over national broadcasting market was partially offset by small initiatives for local independent television. Provisional licences had multiplied from none to 14 till the end of 1990. However, these licenses were only given to local and regional broadcasters, the procedure for obtaining a license being long and difficult, with the hidden purpose to ensure that public stations had national control to protect their dominant position on the audio-visual market.

The civic movement and the fight for an independent and alternative national television channel continued. On 11\textsuperscript{th} June 1990, the University Square protesters and the government initiated negotiations setting up a national TV broadcast being the main claim. After the forced removal of the civic protest movement, associations and pressure groups were founded, such as: Romanian Journalists Association (August 1990), Society for the Organization of an Independent Television (SOTI, September 1990), The National Television Free Syndicate, the Group of Social Dialogue and Civic Alliance.

The leadership of Romanian Journalists Association had the idea of setting up the Society for the Organization of an Independent Television. From 21\textsuperscript{st} to 23\textsuperscript{rd} September 1990, it was held at Bucharest the colloquium for an independent television that would be an alternative to national television. The congress described a national station that would be controlled by civic forces outside the structures of power: “Representatives of many associations, groups, leagues etc. decided to set up a national television station under the control of the civic society, as the sole alternative to removing the monopoly over the circulation of audio-visual information”\textsuperscript{15}. But it was not the idea of private television, neither the initiators had in mind commercial aims. The role of this organization would have been to create a legal framework for independent radio and television stations. In this respect, the colloquium organizers asked the government to elaborate “a law of audio and visual means that should regulate the technical aspects regarding the distribution and use of frequencies”\textsuperscript{16}.

A first broadcasting law was proposed on 15\textsuperscript{th} December 1990. This draft was retracted because of minority opposition in Parliament to the restrictive provisions regulating the content of the broadcasts. The civic groups continued to struggle for the establishment of national independent television station and have held several protest rallies nationwide, which lasted from the summer of 1990 until the spring of 1991.

In that context, Petre Roman government was rather favourable to the idea of demonopolizing the state television. A detailed proposal was made for starting the frequency allocation to private operators even before the passage of the broadcasting law. In the spring of 1991, seventeen independent television stations had received local and regional broadcasting licenses.


\textsuperscript{14} Mungiu-Pippidi A., \textit{From State to Public Service: The Failed Reform of State Television in Central Eastern Europe}, Budapest: Central European University, Center for Policy Studies, 2001, 76.

\textsuperscript{15} Matei, \textit{Politics of Television Privatization}, 8.

\textsuperscript{16} Ibid.
Meanwhile, on April 15th, the Government announced, for the first time, its support for an independent television in Romania and for the commercialization of the second channel of national TV. The President of Romanian state television hastened to announce preparations for establishing a joint stock company with state and private foreign participation to take over the second channel; Romanian Television (RTV) Channel 1 also was to be reorganized as an independent company. Those plans were continuously postponed, and in 1993, the state television dumped the deal for the second channel.

SOTI was mentioned in the special reports of the Council of Europe (1991-1993), and recognized by the US Administration as a milestone in the evolution of democracy in Romania, and can be considered as a time reference for the development of post-communist commercial media in Romania because the pressures of civil society forced the opening of the market.

For the television market evolution the consequences of that civic society movement were very important: first the Government approved the independent alternative news national station SOTI TV, which broke up the state monopoly; then passed the broadcasting law that allowed the entrance of indigene and foreign private players. Afterwards it was registered an increase in market players and a real competition, that can be interpreted as the beginning of the commercial phase.

3. AN INDEPENDENT NATIONAL TELEVISION: SOTI TV

Unexpectedly, the Romanian Ministry of Communication and Romanian Television have allowed in February 1991, to SOTI to experience the broadcasting of a three hours program in Bucharest, on RTV Channel 2 frequency after hours (11-12 PM). The official broadcasting license was not released until April 11th and it was a temporary one; that’s why in the opposition movement Declaration of Unity (April 12th 1991) the establishment of an independent national television remained the main claim.

SOTI TV was the first national independent television in post-communist Eastern Europe, but it was not commercial at all. In early 1990s, Romanian media outlets did not rely primarily on advertising for their income, because of the incomplete privatization of Romanian economy. Marketing or advertising departments of media institutions continued to suffer from a lack of professional training and experience in attracting investors. It was created a new mixture species of television, one that was neither commercial nor entirely private.

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17 Ibid., 9. Before the broadcasting law was finally enacted in May 1992, Romanian government announced the sale of the second national channel to a company registered in Canada, Atlantic Television. Financially, behind the operation would have been a third party, Minos Kiriakou, owner of Antenna, one of the two main commercial networks in Greece. But the money never arrived. In Romania it was believed that the deal should have been financed by the European Bank for Reconstruction and Development (EBRD). Robin Edwards, who represented Atlantic Television in its dealing with the Romanians, defaulted on a several million-pound payment to the workers of another TV company he managed, Westcounty Television, a Cornwall station which eventually went bankrupt. In 1993, the state television dumped the deal, saying that they could secure the EBRD loan alone.

18 Gross, Colosul (Colossus), 47-48.
Funding has always been a crucial issue. With the International Media Fund financial aid (negotiations begun in May 1991) for the purchase of technical equipment, on December 9th, 1991, SOTI TV broadcast for the first time at the national level, under the auspices of a private company, Continental TV National Company. Only in 1992, SOTI TV won the license for nationwide broadcasting on channel 57 along with two other private broadcasters: Antena 1 (19 hours a day) and Teleuniversitatea (an hour a day). SOTI TV broadcasted four hours every day between 6.30 to 9.30 am and between 20.30 to 21.30 pm, on channel 57 until 1995, when it was disbanded. SOTI TV accounted for all employees a veritable school of television, most of them have found their place in the new commercial stations, as they remember and recount in anniversary articles.

4. THE BROADCASTING LAWS

In 1991, a new broadcasting law draft was proposed to the Romanian government after a meeting with Trans Atlantic Dialogue for European Broadcasting representatives on 11th and 12th June, in Bucharest. This draft was lobbied in Bucharest by some of the Romanian state television employees (Răzvan Teodorescu, the second post-communist president of RTV) and by the local representatives of the US government-backed International Media Fund. This was a regulatory bill concerned more with frequency management than with the freedom of expression.

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20 Arachelian V., “Cum a spart SOTI monopolul TVR (How SOTI has broken the monopoly of RTV)”, Jurnalul Național (National Journal), September 22, 2007.
21 “După 20 de ani TV Soti revine (After 20 years SOTI TV is back)”, Jurnalul Național (National Journal), September 14, 2011.
The Romanian parliament decided instead to use its own draft designed by Cantemir Ionescu, a high official in the Telecommunications Ministry, and by Emanuel Valeriu, deputy managing director general of Romanian State Television. Finally, the audiovisual act was signed into law by the Romanian president on May 20th, 1992 (abrogated by the new law from 2002) and the Law on Public Service Radio and Television was passed in 1994 (modified in 1998).

The Romanian law was the second such law to be enacted in post-communist East-Central Europe. Other examples are Czech Republic Law in 1991 (amended Federal Law in 1992 and modified in 2001), Poland Broadcasting Act in 1992, Hungarian Radio and Television Law in 1995 (took effect in 1996), Bulgarian Broadcasting Act in 1998.

The audio-visual law deviated significantly from the purely technical regulatory ideal. The law outlined the parameters for the distribution and awarding of licences to private radio and television stations, established the National Audio-Visual Council (NAC), and regulated the functioning of public radio and television stations.

It began by stating: “The free expression of ideas and opinions and the free communication of information by means of radio and television are warranted by law... Censorship of any kind is prohibited.” But Article 2 prohibited the “defamation of the Country and of the nation, incitation to war or aggression [...], incitation to discrimination, territorial separatism or public violence [...].”

The audio-visual law forbids the assigning of broadcast licences to “political parties or other political formations” or to “public authorities” (Article 6, Paragraph 4) and calls for “pluralism of opinions, equality of the participants’ treatment, and the quality and diversity of programmes” to be the basis for deciding who gets a licence (Article 12, Paragraph 4).

The broadcasting of “information considered secret” was also prohibited, as any “obscene manifestations contrary to morals”, it was provided punishments with prison between six months and seven years, and suspension of the broadcasting license.

A National Audio-visual Council (NAC) writes the rules for the bidding process that awards the licenses (Chapter IV). Besides this it establishes compulsory norms regarding transmission of information referring to calamities and cases of necessity, norms regarding advertising, the programming balance between foreign and domestic production, conditions for exercising the right to retort, the duration and conditions of presentation of the programs destined for electoral campaigns. The NAC, made up of eleven members appointed by the government, by the Romanian president and by parliament, has engendered continuous controversy since its establishment, being seen as another avenue for politicians to attempt to control the broadcast media.

As compared to other East European legislations the law is restrictive to foreign

22 Matei, Politics of Television Privatization, 9.
23 Romanian Audio-visual Law, no. 504/2002, published in Official Journal, Part I, no. 534, 22/07/2002. Accessed February 10, 2013. A new Audio-Visual Law enacted in 2002 and modelled after analogous European laws, relieved the CNA of the responsibility of assigning broadcast frequencies by establishing a new independent body, in charge of the technical issues (including frequency release). The law also introduced a unique provision, the limitation on the maximum market share for broadcasters (30 per cent of the market at the national level, applicable to private broadcasters; 25 per cent at the regional or local levels, in order to avoid the control on the market by an individual owner or a media trust). In 2003, Romania ratified "The European Convention on Trans-frontier Television", making its provisions mandatory for public television. See also Coman, Press Freedom, 178-180.
24 Mungiu Pippidi, From State to Public Service, 42.
26 Ibid.
investors, that’s why it was delayed their entry on the Romanian market. While allowing for foreign capital investments, inclusive of cable, the ownership of broadcast media has to be Romanian (Article 5, Paragraph 2 and 3; Article 7)\textsuperscript{27}.

The law also explicitly states: “No public or private, natural or legal person shall be a direct or indirect majority investor or shareholder in more than one audio-visual communication company, and he/she shall not hold more than twenty per cent of the registered capital in other similar companies” (Article 6, Paragraph 1). The intention was to avoid the concentration of ownership, which translates into concentration of influence that can be used for political, personal, ideological or commercial gains.

In terms of de-monopolization of national television, the law provided that the state broadcasting system to be incorporate as a self-managed public company, while Channel 1 TV and all National Radio stations are exempted from any privatization or leasing. The second channel it was supposed to be preserved as a state asset but to leave only one other national frequency for private use, the fourth one being available only in two thirds of the country\textsuperscript{28}. The direct attempts of the Romanian government to create quasi-private channels under the banner of public television seek not only an alibi for tame commercial stations, but exercises the right of the state to extend its broadcasting operations and to preempt other players from using the scarce resources of the national broadcasting spectrum.

Only two years after the audio-visual law had been accepted by the Parliament, the law concerning the organization and functioning of the Romanian Radio Society and the Romanian Television Society was signed into law by President Ion Iliescu on June 18\textsuperscript{th} 1994.

5. THE ENTRANCE OF PRIVATE ACTORS AND THE BEGINNING OF COMMERCIAL PHASE

After 1992, the government monopoly on television began to weaken along with the installation of satellite networks and the emergence of small, independent stations that reached local and sometimes regional audiences, which offered alternatives to the programs broadcast on public television. The bidding process for local TV broadcasting licenses started in 1992 and continued.

By October 5\textsuperscript{th} 1993, sixty two licenses were granted, in majority being low power stations (UHF), under 100 watts. For Bucharest city, which had at that time 2.3 million inhabitants, it was granted nine licenses which did not even cover the whole metropolitan area\textsuperscript{29}. In Eastern and Southern Romania, regions with a population of 12 million, it was granted only one third of the licenses.

All statistics show that the number of commercial stations was growing rapidly. In the period between 1992 and 2000, CNA archives documents certify that there were granted 235 licenses for terrestrial television broadcasting, 2,523 licences for the transmission of programs by cable, and 18 licences for satellite broadcasting\textsuperscript{30}.

M. Coman presents another statistics of commercial television licences granted by

\textsuperscript{27} Ibid.
\textsuperscript{29} Matei, Politics of Television Privatization, 9.

It is a reality that PRO TV played an important role in the evolution of the Romanian television market, by bringing the concept of competition. Part of the Central European Media Enterprises (CME group)\textsuperscript{32}, PRO TV broke the barriers of television, bringing a very powerful American marketing strategy. Rapidly, Romanian State Television and the other private stations tried to copy the Pro TV format, in an attempt to offer new and improved programs. Although there are hundreds of investors in the audiovisual field, the television industry continues to be controlled by four large players, along with public television, which remains under government control.

Today the biggest commercial channels include PRO TV (CME), Antena1 (various foreign investors) and PRIMA TV (SBS Broadcasting). However, the rise of commercial broadcasting has challenged public service television in various ways, undermining the legitimacy of public service television as a public institution.

6. CONCLUSIONS

In the Romanian post-December 1989 media environment, television was a powerful medium, especially as there were only two channels which served as the main mean of communication in the rural areas. The debate on the possible privatization and de-monopolization of the public television was continuously postponed.

The civic movement for an independent television station and the emergence of SOTI TV, in December 1991, can be considered the first step in the commercialization process of post-communist Romanian Television. SOTI has indirectly forced the Romanian Government to give up the State monopoly and to give legal existence to commercial broadcasters.

Economic, political and even technical pressures demanded the rapid enactment of laws addressing commercial and private broadcasting. Foreign investment in ownership, as well as co-ownership, of the media was extensive and rapidly undertaken at the very beginning of the 1990s. Also, foreign ownership was primarily thought to safeguard the media against political influence.

After 1992, the government monopoly on television began to weaken along with the installation of satellite networks and the emergence of small, independent stations that reached local and sometimes regional audiences, which offered alternatives to the programs broadcast on public television. The real phase of commercial television began after 1994/5, when PRO TV started to broadcasting. PRO TV played an important role in the evolution of the Romanian television market by bringing the concept of competition and marketing strategy.

\textsuperscript{31} Coman, \textit{Press Freedom}, 183.

\textsuperscript{32} Dragomir S., \textit{Fighting Legacy: Media Reform in Post-Communist Europe}, Atlantic Council of the United States Senior Fellows Publication, 2003, 68-69. Following the opening of the Central and Eastern European markets in the 1990s, several Western groups built large TV networks in the region. The largest pan-regional television operators in Central and Eastern Europe include the U.S. Company Central European Media Enterprises (CME), German RTL Group, part of the Bertelsmann media conglomerate, the Swedish Modern Times Group (MTG), News Corporation and German ProSiebenSat. After 1994, Central European Media Enterprises (CME), chaired by the former American diplomat Ronald S. Lauder, launched television stations in Ukraine, Slovenia, Romania, Slovakia as well as the Czech Republic.
The movement for an independent television and external pressures coming from the USA and the Council of Europe forced the Romanian government to be concerned with finding a legislative solution for the post-communist reality: regulating the media system in accordance with new principles of free market economy and political pluralism.

SUMMARY

Media market analysts and researchers consider that private initiative in the Romanian television industry took form after 1992, when the new Audio-Visual Law allowed private agencies to apply for licenses from the Ministry of Communication. And even more, they consider that the real phase of commercial television began after 1994/5, after PRO TV channel started broadcasting. However, commercialization must be regarded as a process that’s why it’s very important to get to know the premise and the context in which took place the entrance of private actors into the Romanian TV national market. In this respect, the establishment and the activity of the Society for the Organization of an Independent Television (SOTI), including the emergence of SOTI TV in December 1991, was a time reference for the development of post-communist commercial media in Romania. The main objective of this study is to analyze the context and consequences of this experience: SOTI was the civic initiative that forced indirectly the Romanian Government to give up the state monopoly and to give legal existence to commercial broadcasters.

RIASSUNTO

Analisti mediali e ricercatori ritengono che l’iniziativa privata nella televisione rumena prese forma a partire dal 1992, quando la nuova legge sull’audiovisivo rese possibile ad agenzie private di richiedere le licenze al Ministero delle Comunicazioni. Ancora di più, considerano che la fase reale di tv commerciale ebbe inizio dopo il 1994-95, quando il canale PRO TV iniziò le sue trasmissioni. La commercializzazione va intesa come un processo, ed è molto importante conoscere le premesse e il contesto in cui si svolse l’entrata di attori privati nella tv romena. Da questo punto di vista, l’attività della Society for the Organization of an Independent Television (SOTI), compresa la nascita nel dicembre 1991 di SOTI TV, è un momento importante per lo sviluppo di media commerciali post-comunisti in Romania. L’obiettivo primario di questo lavoro è l’analisi del contesto e delle conseguenze di questa esperienza: SOTI è stata l’iniziativa civica che ha indirettamente forzato il Gover- no rumeno ad abbandonare il monopolio di Stato e rendere legali i broadcaster commerciali.