

Radio Regulation in Europe: A Comparative Study with Reflections on Situation in Slovenia

A report for¹



SPRL Wagner-Hatfield

February 2015

www.wagner-hatfield.com

jff@wagner-hatfield.com

¹ The views expressed in this report are solely those of the authors and may not, under any circumstances, be regarded as representing an official position of AKOS.

Table of contents

1. Introduction.....	3
2. European benchmark.....	4
2.1. About the division of powers between the different public bodies involved	5
2.2. About the licensing procedures and the content obligations they include	6
2.3. About the ownership/concentration regulatory framework.....	6
3. Main case study: French-speaking Community of Belgium.....	8
3.1. From anarchy.....	8
3.2. ... To regulation	9
3.2.1. Spectrum management.....	9
3.2.2. Licensing	10
3.3. Conclusions from the main case study	17
4. Alternative case studies	19
4.1. Lithuania	19
4.2. Switzerland.....	25
4.3. Bosnia-Herzegovina	29
5. Conclusions and regulatory options.....	32

1. Introduction

Even if it traditionally encompasses television and radio, broadcasting regulation has often been characterized by a priority given to the television sector. This tendency has been more intense in the last decade, due to, on one hand, the digitization process in which regulators played a significant role and, on the other hand, the extension of the scope of regulation to on-demand audiovisual media services.

Nevertheless, there are numerous policy issues that the radio broadcasting sector in general, and radio broadcasting regulation in particular, are facing nowadays. We would like to highlight four of them:

- **The survival of what remains the most democratic media.** In a media environment shaped by convergence, globalization of competition, abundance of offers and multiplication of platforms, viewers and listeners might sometimes feel lost and in an intense need for media literacy. In such an environment, radio remains the most democratic media in all of its aspects: it is 100% free (no subscription, no paywall), easy to use and accessible almost anywhere. Radio is also the most democratic media if we consider it not from the listener's side but from the producer's side, since it is the most affordable media for would-be broadcasters.
- **The survival, in globalized media environment, of a domestic radio sector.** An ambitious national policy in the television sector is full of obstacles, and some of them might even be insurmountable in small markets open to international competition². It is easier to develop a national policy in the radio sector, which can contribute to the provision of national/regional/local content, to the promotion of national/regional/local culture and to the plurality and diversity of information and thus opinion-making.
- **The transition from analog to digital radio.** If the transition from analog to digital television is now completed throughout Europe, digital radio has been launched in very few European countries, and most of the political, economic, social and regulatory issues about this inevitable digital transition remain open. And as it has been the case for television, the role of the regulatory authorities will be crucial in the success or the failure of this transition.
- **The support to non-profit / community radio.** Due to its very democratic characteristics (see above), the radio sector is the only sector of the whole media industry in which "different" voices with no link with the dominant or mainstream players of the State or the market can find an opportunity to express themselves and to be heard by a potentially large audience. But as it has been show by the report produced by EPRA in 2013³, these kinds of radios cannot survive if the regulatory framework does not take

² This aspect of audiovisual policy has been detailed in our May 2014 study for AKOS entitled "Audiovisual policy and content obligations in a digital, connected and international audiovisual environment".

³ <http://www.epra.org/attachments/local-community-media-final-comparative-report>

into consideration their specificities and their specific contribution to the health of democracy and citizenship.

In elaborating and implementing its regulatory approach to the radio sector, each regulator should keep in mind that these four issues are at stake, in order to avoid the risk of addressing the specific challenges of the market with useless or even counterproductive policy and regulatory initiatives. Bearing in mind these four stakes, we will consider the following chapters about the European benchmark, the chosen case-studies and the regulatory options that we will suggest to AKOS.

The aim of the study is to provide a comparative analysis that allows benchmarking the Slovenian system and practices against the approaches in other European countries. On the basis of a two-stage survey conducted among the national regulatory authorities, participating in the European Platform of Regulatory Authorities (EPRA), from July to September 2014 and December and January 2015, in which we gathered 24 and 17 detailed responses respectively, we selected 4 countries for detailed case studies.

The results of the survey analyzed in Chapter 2 are accompanied with tabular summaries of the answers, which are available in the 2 annexes to the study. The situation in the selected 4 countries, namely Belgium, Bosnia and Herzegovina, Lithuania and Switzerland, are discussed in detail in Chapter 3 and Chapter 4. Methodology of the case studies was based on qualitative analysis of the data and evidence on the media and regulatory landscape in these countries and the results of the interviews we conducted with the representatives of the national regulatory authorities in these countries. We focused on the strengths and weaknesses of the respective radio landscapes and the radio regulatory frameworks and put the findings in perspective with the Slovenian situation. We presented our conclusions and possible regulatory options according to our perception of the main challenges in the Slovenian radio environment in Chapter 5.

2. European benchmark

This benchmark has been conducted through a survey which has been made available on the EPRA website between June and September 2014. 24 answers were received. All of them can be consulted in detail on the secured part of the EPRA website.

This benchmark addressed three main issues:

- **the division of powers between the different public bodies involved;**
- **the licensing procedures and the content obligations they include;**
- **the ownership/concentration regulatory framework.**

An attempt to summarize the substance of all these answers in a single comparative table has been made in the excel file annexed to this report. Such an exercise is of course simplistic, and in some aspects subjective (for example in the appreciation of the “high”, “medium” or “low”

level of content obligations imposed on radio broadcasters), therefore we recommend to use it along with the full version of the answers.

Nevertheless, the elaboration of such a comparative table and the analysis of the answers contributed to have a clearer view of each national situation and to facilitate the comparative analysis.

This comparative analysis leads us to learn the following 14 lessons of this benchmark.

2.1. About the division of powers between the different public bodies involved

- 1) In most European countries, there are scattered responsibilities between different public bodies involved (media regulator, telecom regulator, Government, Parliament, specific public body dealing with spectrum management).
- 2) Nevertheless, a dominant model appears, in which the media regulator is in charge of all policy aspects related to content and another public body (independent or not) is in charge of all the policy aspects related to spectrum.
- 3) In the countries where a converged NRA has been established in most cases all the powers lie in the hands of the NRA (e.g. Bosnia-Herzegovina and United Kingdom, with the well-known exception, for public service broadcasting in the United Kingdom, of the specific role of BBC Trust).
- 4) In all the countries, a specific regulatory framework applies to public service broadcasting, which involves the Government and, in a few cases, the Parliament.
- 5) The answers to the survey do not allow us to draw conclusions about the quality of relationship between the different public bodies involved or about the difficulties that scattered responsibilities create, since a large amount of the respondents did not answer to the question about the efficiency of the cooperation between these public bodies. Only two authorities (Belgium – French speaking Community and Poland) admitted that the division of powers does create difficulties.
- 6) When there is a division of powers between different public bodies, the cooperation between them is in some cases formalized, and in other cases remains informal. The formalization of this cooperation (or the lack thereof) does not impact on the appreciation that is made about this cooperation.

2.2. About the licensing procedures and the content obligations they include

- 7) When it comes to a scarce resource (which is the case for FM and for DAB), the beauty contest clearly appears as the largely dominant model of licensing. For historical reasons, one country (Malta) uses the “first-come-first-serve” rule, only one country (Sweden) uses an auction system, whereas two countries (Netherlands and Norway) use a mix between beauty contest and auction.
- 8) When we look more in depth in these licensing models, it appears that if beauty contest is the dominant model, there are nevertheless in almost all the cases tailored-made procedures for different kind of broadcasters or for the use of different kind of scarce resources (analog or digital).
- 9) In most cases, the criteria used to decide between the competitors in a beauty contest are determined in the law.
- 10) When these criteria include content obligations, there is a tendency in the long term evolution of the regulatory framework to lower rather than increase the level of these obligations.
- 11) Lowering the level of obligations could instinctively be interpreted as the result of an objective difficulty of radio broadcasters to fulfill their obligations. It is actually not the case. In some countries where the level of obligations is high, broadcasters do fulfil all their obligations; and in some countries where the level of obligation is low, they might nevertheless face difficulties to fulfil them.
- 12) The obligations which cause the most difficulties to broadcasting are either quotas of domestic music or obligations in terms of providing local content and local news.

2.3. About the ownership/concentration regulatory framework

- 13) Regulating concentration remains an essential public policy objective. Only four countries do not have provisions about concentration in their law. Among these four, two have applied these changes recently and one of them mentions that this lack of concentration rules is indeed problematic.
- 14) No recent cases of interest have been mentioned. However, what appears is that new issues are emerging :

- the competition on local advertising between local players and national players who develop more and more local advertising windows and who benefit from network effects;
- the influence of convergence (the relevant market might not be just the broadcasting market as new players like press groups and telecom operators enter the market);
- the (uneven) balance between public and private broadcasters;
- the potential influence of actual positions of dominance (or of weakness) in the analog environment (FM) on future positions in the digital environment (DAB).

The comparative table summarizing the substance of all these answers is annexed to this report.

3. Main case study: French-speaking Community of Belgium

Among the countries included in the European benchmark, the most interesting case is, by far, the one of the French-speaking Community of Belgium, which has faced in a recent past most of the challenges that Slovenia is now struggling with, and sometimes even much more complex challenges.

This case study is also the most interesting case not only in terms of challenges but also in terms of solutions, since after a long period of absence of any policy, all the public bodies involved in regulating the radio sector eventually managed to elaborate and implement a strategy whose goal was to stabilize the sector, for the benefit of both the broadcasters and the listeners.

3.1. From anarchy...

The roots of the problem which had to be solved in Belgium dates as far back as the end of the monopoly of the public service broadcasters and the first years of what has been called “the liberalization of the radio waves”.

When the first "pirate" (as in unauthorized or unlicensed) radios appeared all over Western Europe at the end on the seventies and the beginning of the eighties, it became clear for the governments that such a movement could not be dealt with simply by considering the pirate radios as outlaws that had to be shut down in order to re-establish “public order” in the use of the spectrum. The social pressures and the success of these new pirate radios clearly proved a demand from the public and the necessity of a new legal framework for liberalization of the radio broadcasting sector.

For reasons that we will not detail in this report (they are linked to the complex institutional design of Belgium and are thus of little interest for Slovenia), only the very first step towards that liberalization was made, i.e. granting licenses to newly created independent, local and non-commercial radios, operating at that time one single frequency in a rather small area and without the faculty to raise commercial revenues.

The difficulties appeared when, for political and institutional reasons, there were no more evolutions of the legal framework for more than 25 years (various government initiatives having been repeatedly struck down by the courts), leading to the absence of delivery of new licenses and of renewal of those which had expired, while at the same time the market was of course quickly evolving : local radios merging with neighboring ones and thus broadcasting the same programs, local radios taking control of the ownership and/or the management of others and thus creating managing and commercial synergies, disappearance of most of the radios originally licensed, progressive and chaotic creation of de facto regional or national networks of different sizes, different means, sometimes different ambitions and most of the time uneven and inappropriate coverage (due to the unregulated building of pillars and use of spectrum).

The consequences of these 25 years of legal vacuum had inevitably disastrous consequences in terms of radio broadcasting policy but also for the well-being of the sector itself. Among those consequences, we can highlight:

1. the impossibility to enforce any kind of content policy, since no broadcaster was operating with a valid license and since, contrary to the reality of the market, no mention was made in the legislation of the possibility to build networks of frequencies;
2. the absence of funding of the “Radio creation fund”, which was during all these years fed only by the contribution of the only legal player on the market, i.e. the public service broadcaster;
3. the progressive and permanent creation of always more and more networks, even of small size and of poor quality, each one having the ambition to find their critical mass on the market;
4. as a consequence, the progressive extinction of several regional, local, independent and non-profit radios;
5. a high level of concentration, these networks being progressively integrated in larger media groups active either in television and/or print media;
6. a low level of diversity, most of these network competing on the advertising market with relatively mainstream formats;
7. the development of what has been called a “watt war”, with economic consequences for the broadcasters (bankruptcy of those who could not bear the cost of the permanent escalation in building new pillars, using new frequencies and airing with tens of thousands of watts on more and more of these pillars), but also with reception consequences for the listeners (very poor quality of reception due to the absence of respect for the neighboring coverage zones);
8. even though Belgium had been one of the pioneer European countries in launching DAB in 1998 (but only with the stations of the public service broadcaster of the French-speaking Community and of the Dutch-speaking Community), the impossibility to launch any DAB plan due to the lack of legal recognition of all the private players active on the market and the risk to propagate in the DAB world the failures of the analog world.

3.2. ... To regulation

This situation lasted from the beginning of the 1980's until 2008 when eventually, but after several failed attempts in the previous years, a new plan was established by the Government and the NRA according to the legal division of powers between them.

3.2.1. Spectrum management

The first step was technical and was lying in the hands of the Government. It consisted in going through a thorough review of the technical infrastructure with the view of identifying all the potential frequencies which could be used and of optimizing their use.

On the public side, international coordination with the numerous neighboring countries and regions (Dutch speaking Community, German speaking community, France, Germany, Luxembourg, Netherlands and United Kingdom) led to the coordination of new frequencies, a complicated task in any small territory.

On the private side, the cooperation with the technical services of the broadcasters themselves allowed also to find new frequencies and optimize the existing one (by testing modifications of their terms of use, by splitting some of them, by abandoning some others in order to create more powerful ones, ...).

At the end of this process, the 436 frequencies available were distributed between different categories of players:

- The public service broadcaster, which had the opportunity to consolidate its existing national networks by growing from 52 to 76 frequencies;
- The private broadcasters, for which 360 frequencies were distributed in 4 categories :
 - 4 "national" networks with a potential national coverage (between 30 and 40 frequencies each)
 - 2 "multi-city" networks covering the main urban areas (around 20 frequencies each)
 - 5 "provincial" network covering each one province (around 10 frequencies each)
 - 85 "independent" radios covering each a local (urban or rural) area with one single frequency.

3.2.2. Licensing

Once this design of the spectrum had been made, it was the role of the NRA to grant these 96 licenses (4+2+5+85) through a beauty contest, a huge number requiring a complex but appeal-proof procedure.

This licensing process followed a **4 step-approach**, two of them adopted before the tender and two of them after it, but all of them forming a "funnel" which would contribute, at the end of the process, to make the most informed and best motivated choices for the 96 licenses to grant.

3.2.2.1. Step 1: principles

The first step was, several months before the actual launch of the beauty contest, to adopt a recommendation⁴ about “the diversity of the radio landscape and the access by the public to a pluralistic supply”⁵. The three main goals of this recommendation were:

- To recall internationally shared principles, especially those mentioned in the Council of Europe’s Recommendation Rec(2007)2 on media pluralism and diversity of media content;
- To highlight the special responsibility of the NRA in the process, considering the very specific situation of the market after these 25 years of legal vacuum and especially the high level of concentration it has reached; the NRA made it clear that *“One could not imagine that the CSA, by granting licenses, could provide to one or several radio broadcasters (or comfort one or several radio broadcasters in) a significant position which could affect the freedom of the public to access a pluralistic supply, position that the CSA would then have to remedy to in consultation with the broadcasters concerned”*;
- To announce its guidelines and criteria for assessing :
 - *“structural pluralism”* (number of radio, TV and press services; ownership, management and financing of these services; audience share; advertising market share; agreements with content providers like news agencies, musical labels, rights owners of sports and cultural events; agreements with advertising sales houses; application of the Herfindahl–Hirschman Index; ...) and
 - *“content pluralism”* (public targeted; kind of programs aired; kind of music aired; origin of the programs : own production, co-production, acquisition; importance of information in programming; nature of this information; partnerships for the delivery and production of information; ...).

3.2.2.2. Step 2: qualification of the applications

The second step, also before the launch of the tender, was to adopt a second recommendation, this time not focused on principles but on the practical analysis of all the applications. This recommendation about “the diversity and the balance between radio formats”⁶ detailed how the NRA would manage the applications by:

- distributing the frequencies between appropriate geographical zones:
 - one national zone ;
 - five provincial zones (one per province) ;
 - several urban zones (one per city) ;
 - “duplicate” zones (in rural areas when more than one frequency will have to be granted to independent radios);

⁴ A recommendation is a non-binding position which can be issued by the NRA on any topic which falls under its remit. We could compare it, in the EU regulatory framework, to an interpretative communication.

⁵ Available in French at <http://www.csa.be/documents/673>

⁶ Available in French at <http://www.csa.be/documents/775>

- “isolated” zones (in rural areas with one single frequency to grant to independent radios);
- attributing of one priority format (and possibly one secondary format) to each applicant according to the analysis of the application through a check-list of 35 different criteria :
 - geographical format would be applied to radios who, for example:
 - targets a specific geographical audience and who does not mention targeting specific sub-groups within that audience;
 - intends to produce local content of specific interest for that audience;
 - privileges mainstream music programming;
 - is controlled or managed by people coming from this specific geographical zone;
 - community format would be applied to radios who, for example:
 - targets a specific audience according to cultural aspects (origin, language, religion...) which allow to identify a specific community;
 - is driven by a specific community and for this specific community;
 - is conceived as way for this specific community to address the general public;
 - is controlled or managed by people coming from this specific community;
 - thematic format would be applied to radios who, for example:
 - target a specific audience according to a specific social or cultural needs;
 - develops a programming around specific principles which are clearly put forward;
 - develops an homogenous programming all year long around these principles;
 - develops partnerships with stakeholders (media, institutions, events) who share these social need and principles;
 - expression format would be applied to radios who, for example:
 - has the goal to contribute to cultural diversity by providing content usually not broadcasted by others;
 - has a great level of diversity decentralization in programming;
 - privileges alternative music programming;
 - functions on a non-profit basis and in controlled and managed mainly on a voluntary basis by those who are in charge of programming and are on air;
 - generalist format would be applied to radios who, for example:
 - privileges mainstream content, even if it might target a specific public (but without a strong focus without excluding other groups within the general public)
 - does not target a specific geographical audience;
 - airs regular information programs;
 - functions on a commercial basis, with strong financial ambitions;
- fixing the priorities between these 5 different formats within the different geographical zones:

- in “isolated” zones: priority to geographical formats (considering the fact that there is one single license to grant for a specific local coverage and that generalist formats will be provided by national networks);
- in “duplicate” zones: same priority (geographical) for one frequency and priority to any other format except generalist (see above) for the remaining frequencies;
- in urban zones: $\frac{1}{4}$ expression format, $\frac{1}{4}$ thematic format, $\frac{1}{4}$ community format, $\frac{1}{4}$ other (considering the fact that geographical formats will be partly provided by provincial networks and that generalist formats will be provided by national networks);
- in provincial zones: priority to geographical formats (considering the fact that there is one single license to grant to each province);
- in national zones: priority to generalist formats.

3.2.2.3. Step 3: evaluation of the applications

The third and main step, once the tender had been launched, consisted in the evaluation of all the applications. In order to do so, the NRA elaborated an analysis table summing up the criteria present in the law and in the tender procedure. All the applications were evaluated through all these criteria, with three levels of evaluation (“good”, “satisfying”, “unsatisfying”) which allowed, at the end of evaluation process, to rank all of them.

	36. BFM Plus SA - BFM			
	Criteria	Unsatisf	Satisf.	Good
Cultural ambition	Ensuring cultural promotion			***
	Ensuring a minimum of 70% own production - unless exemptions			***
	Broadcasting in French - unless exemptions		100%	
	Broadcasting yearly 30% music with texts in French		[N/A]	
	Broadcasting yearly 4,5% of artists of the French speaking Community of Belgium		[N/A]	
	Developing/promoting social and cultural heritage		**	
	Total		**	*****
Strenght of the radio project	Originality and innovative nature of the project			***
	Experience in the radio sector			***
	Share of decentralised production	**		
	Geographical and social proximity with the audience	*		
	If urban - interest in terms of diversity of formats in cities			**
	If provincial- development/promotion of local knowledge and culture		[N/A]	
	If provincial- local and provincial partnerships and synergies		[SANS OBJET]	
	Total	***		*****
Information	Quality of information			***
	Independence of information			***
	Information produced by professional journalists and amount of journalists			**
	Rules of procedures about impartiality in the treatment of information and commitment to respect them			**
	Recognition of a internal society of journalists		[society created]	
	Total			*****
Technical and financial stability	Adequacy of financial plans	***		
	Presenting an employment plan			**
	Being a commercial company whose capital is represented exclusively by nominal shares		OK	
	Broadcasting a service according to applicable technical standards			
	Assuring technical maintenance by at least one duly qualified technician		**	
	Providing guarantees allowing to check the potential economical viability of the project		*	
	Being independent of every government, every political party and every organisation representing employers or workers			*
	Having implemented the procedures in order to comply with rules on copyright and related rights			*
	Total	***	***	****

Since this step was the cornerstone of the whole procedure, it was of course not only summed up in the table above. For each criteria of each application, an argumentation was duly motivated, and all these motivations were further integrated in the final decision about each application - something necessary to sustain an appeal in front of the court, as well as a courtesy to the applicant.

3.2.2.4. *Step 4: pluralism of the radio landscape*

A fourth and final step was necessary to conclude the tender procedure. Limiting the evaluation process to the quality of each individual application could indeed in theory lead to grant a most licenses to the same media group.

In order to avoid this tension between diversity (content pluralism) and ownership (structural pluralism), the global result obtained after the third step passed a “3 criteria test”, outlined in previously published policies:

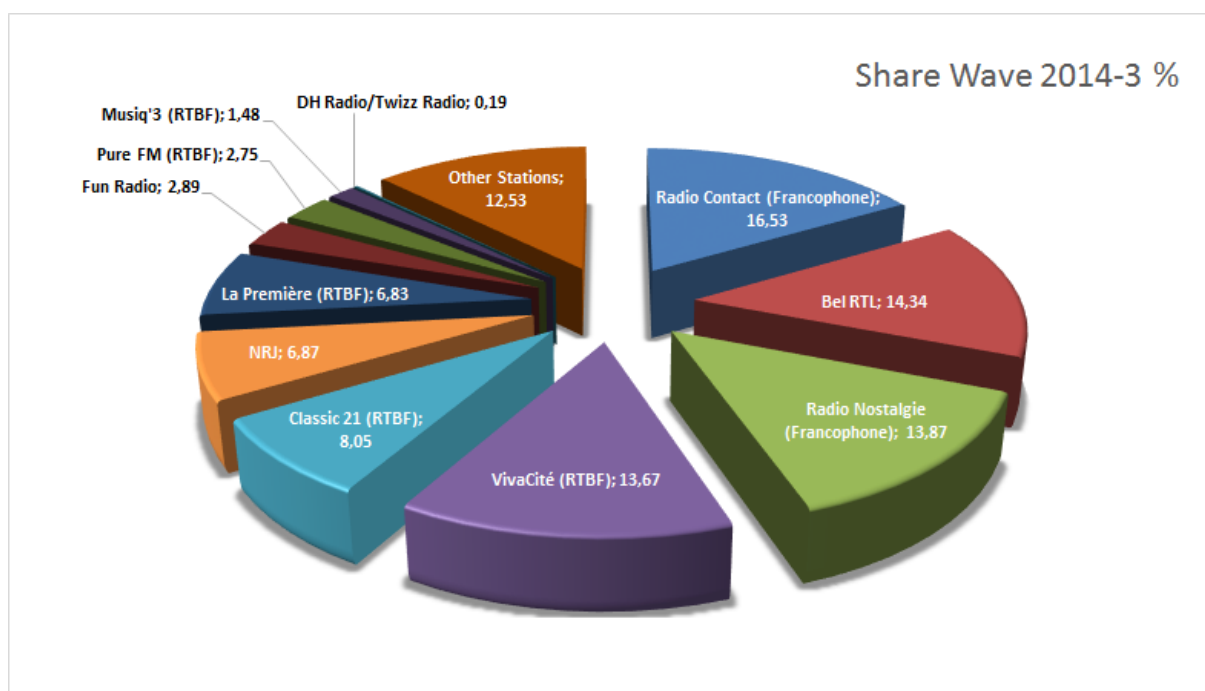
- The “test of significant position” consisted in answering to the following questions:
 - Does a broadcaster own another one?
 - Do these broadcasters represent together a significant audience share?
- The “test of contribution to structural pluralism” consisted in answering to the main following questions:
 - Has the audience access to a low/average/high level of media?
 - What is the impact of these media on the audience and on the market?
 - Are these media independent from each other or interrelated?
- The “test of contribution to content pluralism” consisted in answering to the main following questions:
 - Has the audience access to a low/average/high level of diverse opinions and ideas?
 - What is the share of information in the programming of the broadcaster?
 - Is this information shared between several broadcasters or does each broadcaster have its own newsroom?
 - What is the share of own production in the whole programming?
 - What is the advertising sales house of the broadcaster?
 - What kinds of partnerships have been concluded with the press in terms of content?

This fourth test proved indeed also essential since it led, in one case, to refuse to grant a license to an application which had good evaluations for all its applications but would have ended up with a heavily significant position on the market (it would have won the licenses for the first two national networks and for one “multi-city” network).

Since then, the radio landscape has been stabilized and is, nationwide, mainly dominated by two private groups, each owning two radios, and the public service broadcasters with five radios:

- RTL Group (Radio Contact + Bel RTL);

- NRJ Group (Radio Nostalgie + NRJ);
- RTBF – public service broadcasters (Vivacité, Classic 21, La Première, Pure FM + Musiq'3).



Station	Daily Reach (with confidence interval)				Share	Daily Average Time Spent
	Min.	1.000	Max.	%	%	
Radio Contact (RTL Group)	532,21	576,16	620,40	14,01	16,53	173
Bel RTL (RTL Group)	563,29	608,20	653,49	14,79	14,34	142
Radio Nostalgie (NRJ Group)	414,71	454,49	494,38	11,05	13,87	184
VivaCité (RTBF)	492,82	535,65	578,34	13,02	13,67	154
Classic 21 (RTBF)	255,92	288,37	320,80	7,01	8,05	168
NRJ (NRJ Group)	359,44	397,02	434,47	9,65	6,87	104
La Première (RTBF)	320,89	356,59	392,39	8,67	6,83	115
Fun Radio (25+ RTL Group)	149,20	174,77	200,45	4,25	2,89	100
Pure FM (RTBF)	105,50	127,68	149,54	3,10	2,75	130
Musiq'3 (RTBF)	54,60	71,14	87,73	1,73	1,48	125
DH Radio (owned by a press group)	6,29	13,47	20,86	0,33	0,19	84

Source : www.cim.be, February 2015.

Moreover, even though the revenues of radio were already very high, they have significantly grown since then : radio advertising spending in Belgium in 2013 is more than 14%, and in the French speaking Community of Belgium it is even higher (more than 16%). This is, by far, one of the best results in Europe (Luxembourg being a particular case, due to its television landscape).

	Ratio of advertising spend in radio in the 28 EU Countries, in %of total				
	2009	2010	2011	2012	2013
Austria	5.54	5.44	5.07	5.91	5.75
Belgium	10.41	11.01	12.42	13.77	14.33
Bulgaria	3.11	1.96	1.71	1.36	1.28
Croatia	6.70	6.63	6.65	6.48	6.12
Cyprus	7.70	8.21	8.93	6.25	6.27
Czech Republic	2.36	5.57	5.43	4.99	4.73
Denmark	1.93	1.99	2.15	2.24	2.36
Estonia	10.82	9.85	9.97	10.03	9.81
Finland	4.17	4.11	4.27	4.20	4.32
France	6.85	6.79	6.58	6.39	6.53
Germany	4.29	4.16	4.09	4.26	4.38
Greece	4.26	3.89	3.39	3.73	3.27
Hungary	6.79	6.59	6.47	8.61	7.68
Ireland	10.77	9.37	8.67	8.54	8.02
Italy	5.15	5.20	4.90	4.94	4.87
Latvia	12.33	11.54	10.61	10.58	11.72
Lithuania	8.53	8.00	7.91	7.85	7.86
Luxembourg	20.93	20.90	21.47	23.52	21.33
Malta	6.84	7.58	7.91	7.92	8.37
Netherlands	6.26	6.21	6.31	6.20	6.34
Poland	8.02	7.53	7.73	6.59	6.48
Portugal	5.32	5.20	5.78	6.55	5.96
Romania	11.61	11.29	12.89	15.31	19.28
Slovakia	6,14	6.12	4.96	4.66	4.01
Slovenia	7.32	7.26	6.76	5.85	4.53
Spain	9.52	9.45	9.46	9.52	9.45
Sweden	2.90	3.04	3.18	2.74	2.43
United Kingdom	3.86	3.66	3.62	3.67	3.42

Source: European Audiovisual Observatory, 2014 Yearbook.

3.3. Conclusions from the main case study

If this case study has proven to be both a regulatory success (which definitely established the authority of the NRA and confirmed its expertise) and a legal success (out of the 195 applications received, only 19% of the decisions were challenged and all of them have eventually been upheld), we would like to stress that it does not mean it can necessarily be replicated as such in another environment with a guarantee of success.

But it can certainly be a source of inspiration, and in this regard, we would like to stress that, according to our experience, such a success has been made possible by the following attitudes from the NRA:

- Perseverance : before launching the successful “FM plan” in 2008, several unsuccessful attempts had failed in the previous years;
- A special care to the “big picture” during all the steps of the procedure, both for the technical aspects (completely reshaping the technical infrastructure), for the legal aspects (legal certainty of all the steps) as well as for the more “political” aspects;
- A long period of preparation of the procedure, which started several months ahead of the launch of the tender itself;
- A great concern for the quality of the technical architecture and its accordance, as much as possible, with the needs and wishes of the market players;
- A strong willingness to keep all the stakeholders at bay during all the steps of the procedure;
- A maximum of transparency over the whole procedure;
- A maximum of objectivity to all the steps of the procedure;
- A special care to motivate all the decisions as much and as deep as possible;
- Avoiding the tendency to play the “*Deus ex-machina*” who would intervene to “organize” the market : any intervention on the market has disruptive effects on the hearing habits and should thus be limited to what is clearly necessary;
- A strong willingness from the NRA to fulfill its responsibilities, in all its aspects:
 - pedagogical (to convince broadcasters who had been use to anarchy that they can benefit from a regulated framework);
 - behavioral (to show its agility fit in a technical and normative framework adopted by other public bodies);
 - moral (to avoid inevitable attempts of regulatory capture);
 - economical (to find the most appropriate balance between policy objectives in terms of diversity of formats and policy objectives in terms of pluralism of ownership);
 - political (to be able to prove the added value of regulation compared to alternative systems);
- A strong care to communicate about the decisions taken and their motivations, even in a hostile environment.

4. Alternative case studies

Following the European benchmark, it appeared worthy of interest to investigate deeper and to select a few alternative case studies. This was done on the basis of the results of the additional inquiry to which 17 countries replied (for the details see the annex 2).

Our choice of Lithuania, Switzerland and Bosnia-Herzegovina were driven by the following considerations:

- When we compared the challenges faced in the radio broadcasting sector in Slovenia (cf. chapter 5) to the answers provided in the European benchmark, it appeared that almost none of these challenges were present in Lithuania, which meant that some best practices could be learned from that country.
- The next two choices were driven by the willingness to continue to analyze the situation in small countries or markets and by the diversity of their situation. For all these reasons, the other two alternative case studies are Switzerland (where numerous challenges are present in terms of technical organization of the spectrum) and Bosnia-Herzegovina (where, like in the French speaking Community of Belgium but for completely different reasons, numerous challenges have been faced during their own thorough reorganization of the radio landscape).

4.1. Lithuania

Lithuania has several similarities with Slovenia. Both countries are part of the group of small EU countries. It is a market of rather the same size (around 3 million inhabitants), and with a rather same GDP per capita (around 25.000 €). Also, like Slovenia, it is a country with a homogenous population (around 85% Lithuanians) and few but diverse ethnic minorities (Polish, Russian, Belarusian).

Despite these similarities, the interesting difference with Slovenia is that Lithuania enjoys a rather dynamic, diverse and stable radio broadcasting sector. The current Lithuanian radio broadcasting landscape is occupied by 52 services, broadcasted by 46 providers. There are as much as 10 radios of national coverage (i.e. more than 60% of coverage), 9 regional radio stations (i.e. less than 60% coverage) and 35 local radio stations (i.e. usually using a single frequency).

	Service	Provider	Frequencies
1.	LRT RADIJAS (Public)	VšĮ Lietuvos nacionalinis radijas ir televizija	25

2.	LRT KLASIKA (Public)	VšĮ Lietuvos nacionalinis radijas ir televizija	12
3.	Radiocentras	UAB „Radiocentras“	19
4.	Pūkas	UAB „Pūkas“	17
5.	Žinių radijas	UAB „Žinių radijas“	16
6.	M-1	UAB „M-1“	15
7.	Laisvoji banga	UAB „Laisvoji banga“	12
8.	Lietus	UAB radijo stotis „Ultra vires“	12
9.	M-1 plus	UAB „M-1“	10
10.	ZIP FM	UAB „Muzikos topai“	8
11.	Marijos radijas	VšĮ „Marijos radijas“	23 ⁷
12.	LRT OPUS (Public)	VšĮ Lietuvos nacionalinis radijas ir televizija	9
13.	Pūkas- 2	UAB „Pūkas“	6
14.	RELAX FM	VšĮ „Kvartolė“	5
15.	RUSSKOJE RADIO BALTIJA	UAB „Rimtas radijas“	5
16.	Power Hit Radio	UAB „TELE-3“ radijas	4
17.	Geras FM	UAB „Geruda“	2
18.	FM 99	UAB „Alytaus radijas“	2
19.	Extra FM	UAB „Interbanga“	5 ⁸
20.	HOT FM	UAB „Kauno fonas“	4
21.	Kelyje	UAB „Radijas kelyje“	3
22.	Europos Hitų Radijas	UAB „Radiola“	2

⁷ Community (religious) radio using small frequencies.

⁸ Some local radios benefit from more than one frequency, but they have to broadcast a different programme on each of these frequencies.

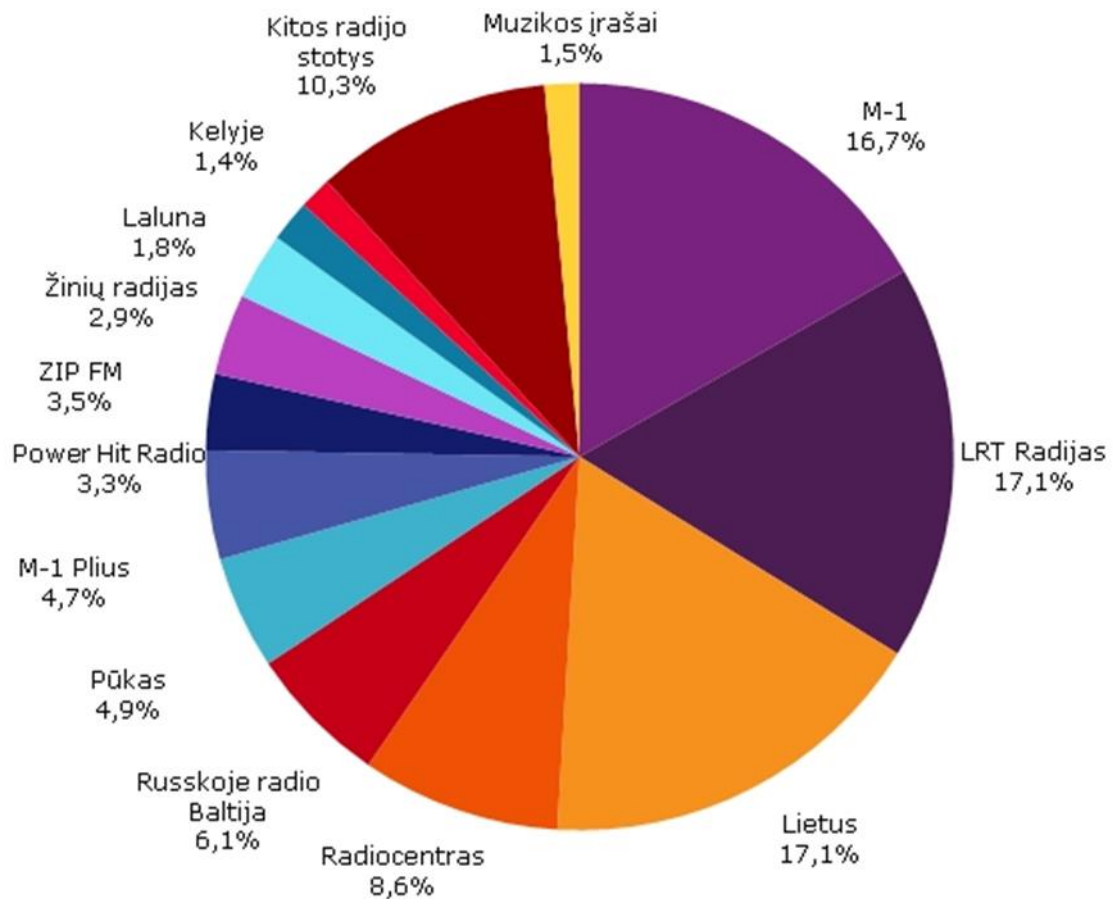
23.	Pulsas	UAB „Radijo pulsas“	2
24.	XFM	UAB „Aukštaitijos radijas“	2
25.	A2	V.Ivanausko IF „Vydas“	1
26.	Antroji radijo stotis	UAB „Antroji reklamos atelje“	1
27.	Baltijos bangų radijas	VšĮ „Baltijos bangų radijas“	1
28.	Baltupių radijas	Vilniaus Baltupių progimnazija	1
29.	Classic Rock FM	UAB „Radiocentras“	1
30.	Gaudeamus	Kauno technologijos universitetas	1
31.	Indros radijas	VšĮ „Indros radijas“	1
32.	JAZZ FM	UAB „Proarsa“	1
33.	Kapsai	UAB „Lamantas“	1
34.	Laluna	UAB „Radijo stotis Laluna“	1
35.	Mažeikių aidas	UAB „Mažeikių aidas“	1
36.	Nano	VšĮ Šiaulių universiteto gimnazija	1
37.	Neringa FM	UAB „Eurolexis“	1
38.	Radijas XXL FM	UAB „Info XXL“	1
39.	Radijo klubas	Šiaulių Didždvario gimnazija	1
40.	Radijo stotis „Nykščiai“	UAB „ATVIRAI“	1
41.	Radijogama	UAB „Reklamos gama“	1
42.	Raduga	UAB „Lanula“	1
43.	Ratekona	S.Žilionio personalinė radijo ir televizijos konsultacinė agentūra	1
44.	Saulės radijas	UAB „Saulės radijas“	1

45.	Spindulys	UAB „Plunsta“	1
46.	Studio 7	VšĮ „Kauno moksleivių ir jaunimo laisvalaikio centras“	1
47.	Tarptautinis Baltijos bangų radijas	UAB „Tarptautinis Baltijos bangų radijas“	1
48.	Tau	UAB „Artvydas“	1
49.	Tauragės radijas	VšĮ „Šou imperija“	1
50.	Vilniaus radijas	VšĮ „Teleradijo kompanija Hansa“	1
51.	Vilniaus Universiteto radijas „Start FM“	Vilniaus Universitetas	1
52.	Znad Wili	UAB „Znad Wili radijo stotis“	1
53.	BBC	Retransliuoja VšĮ Lietuvos Nacionalinis radijas ir televizija	1

Source : Lithuanian Broadcasting Council (LRT).

If the public broadcaster enjoys the position of most popular programme, its overall position is rather weak, since it airs two other programmes whose audience is insignificant. On the private side, the situation is close to the one faced in the French speaking Community of Belgium : the market is dominated by two different media groups, each of them owning several radio stations and one of them (M1 group) being in a comfortable leading position over its “challenger” (Radiocentras group).

Average share of radio stations in Lithuania, Autumn 2014



LRT Radijas – Public service – 17,1%

Lietus, M-1, M-1 Plus, Laluna – M-1 group – 40,3%

Radiocentras, Ruskoje radio Baltija, Zip FM – Radiocentras group – 18,2%

Source: TNS LTL

What is striking is that such diversity can be maintained with a double economic constraint: the small size of the market (around 3 million people and 1,3 million households) and that the fact that Lithuania has been one of the countries which suffered the most of the economic downturn of 2008. It is worth noting that, whereas advertising spending in television and the press has indeed decreased, it has not been the case for radio (it stabilized around 8% in the recent years), and that these advertising spends in radio are at a rather high level compared to other

countries (for example, it fell from 7.5% to 4.5% in Slovenia and from 5.6% to 5.2% in the EU between 2009 and 2013)⁹.

What is also striking is that Lithuania, contrary to the French speaking Community of Belgium where the main radio stations are owned by foreign media groups (RTL group and NRJ group), has maintained a radio broadcasting sector owned by domestic media groups, which are also active in other sectors of the media business. There is only one exception: Power Hit Radio is owned by the international player MTG, but its audience share remains very weak despite the fact that MTG is the dominant player on the television market.

The keywords of this case study appear to be clarity and predictability, and relate to the strong movement towards liberalization which characterized the Baltic States after the fall of the Soviet Union and which allowed a wide range of players to enter the audiovisual industry and benefit from light-touch regulation and/or State intervention.

The licenses are delivered for a period of 10 years, and both in terms of technical organization of the spectrum and in terms of content obligations, the market players know that they can benefit from a clear and stable framework during that period.

In terms of technical coverage, since 2003, the media regulator (LRT) and the telecommunications regulator (RRT) have developed together a “Strategy for allocation of frequencies for radio and television broadcasting” and the cooperation between the two institutions seems satisfactory. The main objectives of this Strategy are to maintain competition and prevent monopolization trends, to ensure that the use of existing and planned spectrum resources for the broadcasting and telecommunications networks cover the largest possible part of the territory, and to promote the harmonious development of all kinds of electronic media in all regions of Lithuania, taking into account public and commercial broadcasters interests. Until recently, this strategy had to be reviewed every two years, especially to take into consideration the digitization process. Thanks to this strategy (which is detailed in a public document), the coverage area and technical requirements of all the frequencies are always known before every tender by all the applicants and none of them can hope that their coverage area after the tender will significantly increase, nor fear it might decrease.

In terms of content obligations, the main constraint is to keep the format which was announced by the provider when applying to the tender. This prevents of having similar formats broadcasted in the same coverage areas. Alongside this format come different kinds of obligations which are mentioned in each individual license (e.g. no more than XX% of information for musical radios, no less than XX% of Lithuanian music or Russian music for radios specialized in this kind of music, no less than XX hours of information or talk show for radios specialized in these formats, ...). Applied individually and not horizontally to all the market players (which in this case would mean e.g. that all the radio have to produce local information, all the radio have to broadcast 30% of domestic music, ...) this constraint in terms of content can also be considered

⁹ European audiovisual observatory, 2014 yearbook. The full European data are provided above.

as a guarantee that other players on the market will not change their format and compete with the same audience.

Since the conditions of the tenders can mention that a priority can be given to an applicant which proposes a programme which is not aired in the contested area, this leads to a diverse offer in most of the areas, as long as enough technical resources are available (an issue which remains problematic in the biggest cities of the country).

4.2. Switzerland

Switzerland has also several similarities with Slovenia. It is also a small European country, whose French speaking population is of the same size as the Slovenian population (around 2 million inhabitants). It is also, like Slovenia, a country where private radio broadcasters do not enjoy a “national” coverage or even the coverage of a whole linguistic region. This situation is also the same for the television sector and, to a certain extent, the press, and is economically balanced by a high level of cross-ownership between these sectors¹⁰.

If private television broadcasters face structural difficulties and survive only thanks to public funds, the radio landscape is healthier. Several elements of success in the Swiss radio broadcasting sector are worthy of interest.

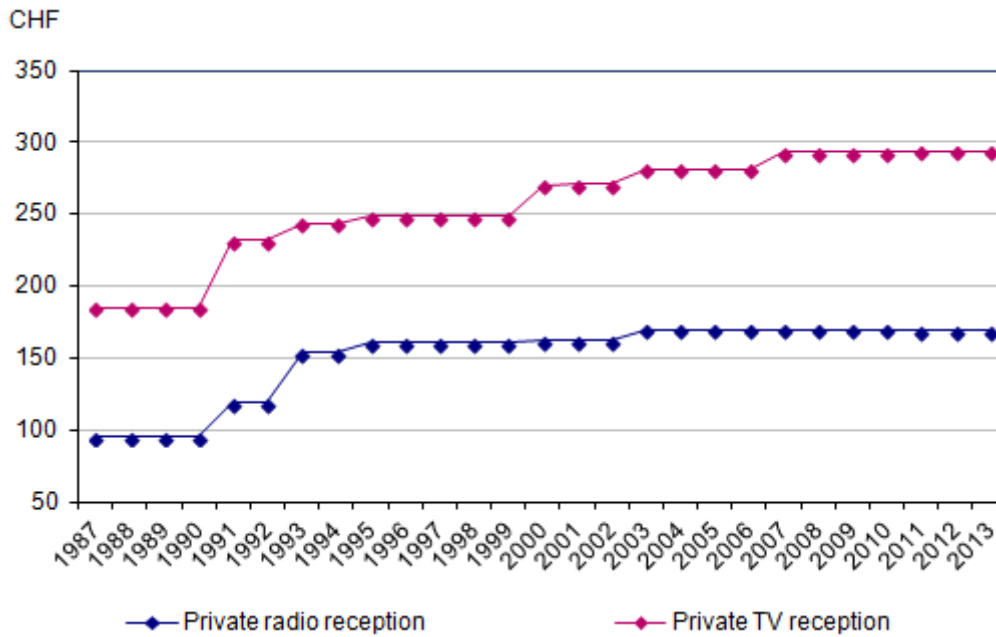
The first one is that, although spectrum management is very challenging due to its landlocked position (5 neighboring countries including the neighboring Italy, sometimes unfriendly when it comes to spectrum occupation¹¹), its difficult geography (a plateau surrounded by the Alps and the Jura mountains) and its four languages (French, German, Italian and Romansch), the technical coverage of different radio remains satisfactory, there is no scarcity in terms of infrastructure. This can be explained partly by the huge investments made in the past respectively by the public service broadcaster SSR in terrestrial infrastructure and by Swisscom (the incumbent telecommunication operator) in telecommunication infrastructure, as well as, more recently, by the investments in DAB coverage, which represents now a viable alternative to FM both for FM radios and for newcomers. A switch-off of analog radio is even planned to take place in the coming years, and in 2024 at the latest.

The second one is that the Swiss listeners benefit from a rather diverse supply. This diversity is mainly provided by the public service broadcaster SSR, whose high level of financing (more than one billion euros per year) is secured by the highest license fee in Europe : 239 CHF (228 €) for television and 169 CHF (161 €) for radio.

¹⁰ It is the case especially in the press sector. Concentration within the broadcasting sector is limited by the “2+2” rule (ownership of more than 2 television and 2 radios is forbidden), but this rule is probably going to be abolished during the current review process of the Swiss regulatory framework.

¹¹ This led to some disputes between Switzerland and Italy, as well as to complaints to the ITU.

Price of the license fee (in swiss francs)

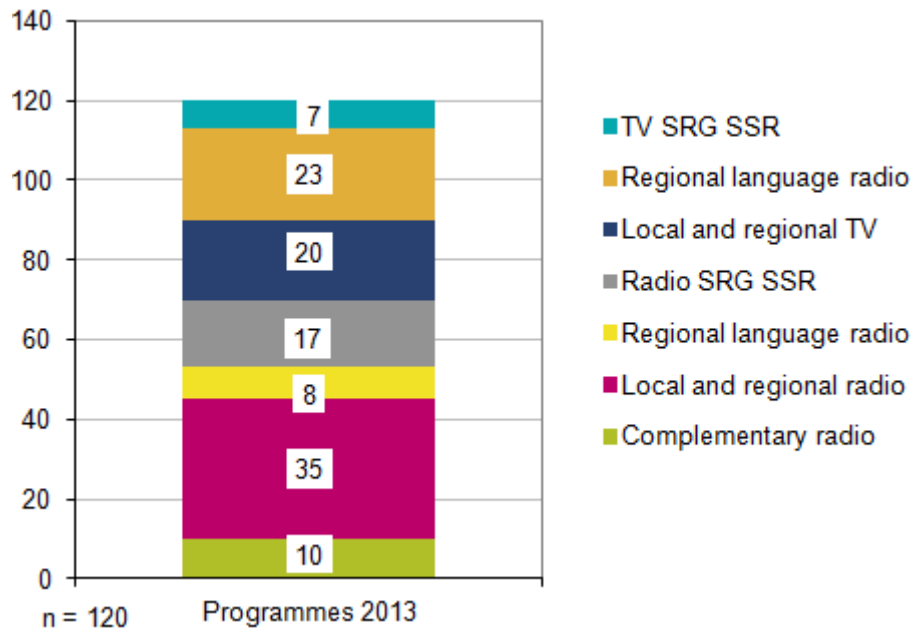


Source: OFCOM.

This license fee contributes to around 75% of the revenues of the SSR, and the remaining 25% of the funding is raised on the advertising market, but exclusively on television (which contributes to around 25% of the revenues).

The SSR has the mission to provide public service programs of the same quality for the 4 different linguistic communities of the country, which is achieved by cross-subsiding the programs for the French, Italian and Romansch speaking communities (the German speaking population contributes to around 70% of the revenues raised through the license fee but less than 50% of the programs produced are in German). This situation partly explains the fact that the SSR is such an important media group: more than 6000 employees work on airing 7 TV stations and 17 radios stations.

Swiss TV and Radio market



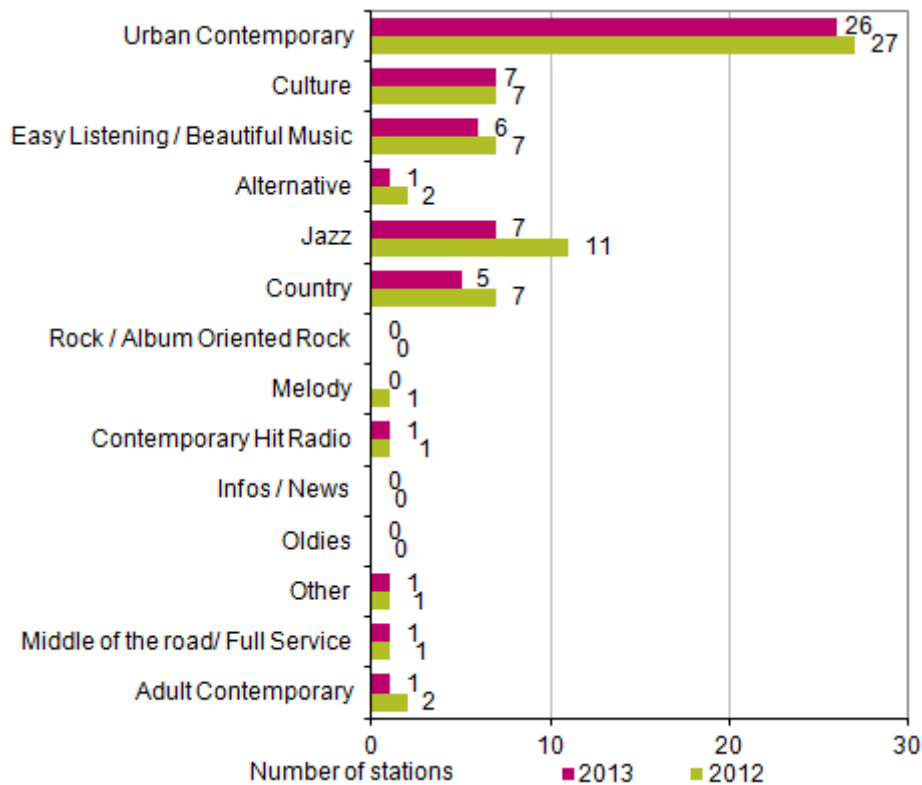
Source: OFCOM.

The cultural diversity of the country explains that fact that there are no national private radio broadcasters, which is a very rare situation in Europe, shared with Slovenia. It is also the result of a policy which was guided by the so-called “three level model” of media regulation:

- A strong public broadcaster involved in supporting domestic culture and in a capacity to compete with big foreign television channels of the three big neighboring countries (Germany, France, Italy);
- A division of the market between the public broadcaster involved nationwide and “linguistic-region wide” and the private broadcasters involved sub-region wide and localwide;
- A public support to these private broadcasters through a “license-fee splitting” (see below), in order to support the diversity of opinions.

If there is no competition at the national / linguistic-regional level, there is a strong competition at the sub-regional level between the SSR and the sub-regional commercial radios. There is also a satisfying range of formats among the commercial radios, which try to complement each other with different formats (in terms of genre of music or in terms of priority given to some kind of information: regional, national, international, economic, cultural, sport...) rather than compete on the same mainstream formats.

Format of private radios

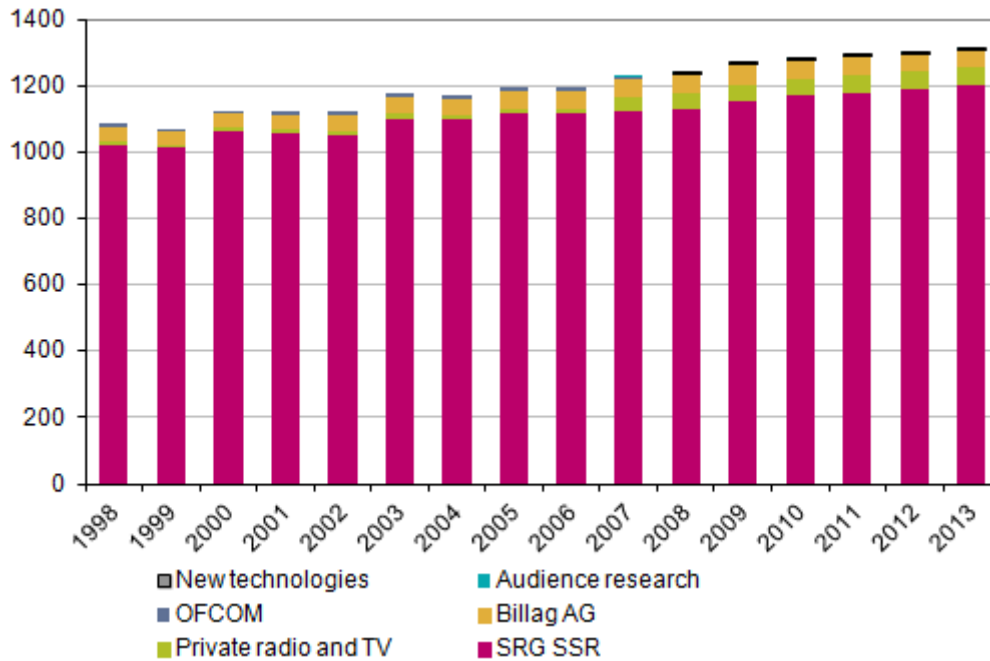


Source: OFCOM.¹²

This success of regional radio can be partly explained by the fact that, in exchange of certain public service missions (relating to coverage of current affairs, special care for certain social groups, quality of the functioning and the management... and defined in an individual “programme service mandate” - “mandat de prestation” in French or “Leistungsauftrag” in German), the private broadcasters can benefit from a small percentage of the license fee (currently 4%), even though the level of these public service missions remain quite low (few content obligations and only on prime time, liberal advertising regulation, ...). Also, the private radio broadcasters naturally benefit from the fact that advertising is banned on public service radios (only sponsorship is allowed).

¹² The definition of these formats is available at : <http://www.bakom.admin.ch/dokumentation/zahlen/03208/03216/03223/index.html?lang=en>

Allocation of the revenues of the license fee (in swiss francs)



Source: OFCOM.

It is also worth mentioning that, although it remains at a low level, radio advertising spends have been increasing in the recent years (8% growth between 2010 and 2014), alongside the increase of the audience itself. Moreover, according to studies commissioned by OFCOM, the public is satisfied with the content offered both by the SSR and by the commercial radios, and especially by the local content they provide.

Finally, even if it is beyond the scope of this study, it is interesting to recall that Switzerland is one of the most advanced and of the most successful countries in terms of penetration of DAB, with 100% coverage, around one third of the households equipped, between 30 and 50% of the new cars with DAB in the standard equipment, and 78 stations on air, including 28 DAB exclusive.

4.3. Bosnia-Herzegovina

The third alternative case was chosen on one hand in contrast with the two others (unstable political and institutional environment, enduring social and economic difficulties), and on the other

hand in similarity with the main case study (like the French speaking Community of Belgium, Bosnia-Herzegovina faced the need to find a way out of a system dominated by illegal media players).

Between the independence of the country in February 1992 and the creation of a regulatory authority in August 1998 (the IMC which became the CRA in 2001), more than six years of war and instability paved the way for the completely unregulated use of the spectrum by radio and TV broadcasters. Even after the war, *“before the establishment of the IMC, frequency management and broadcast licensing was handled by different bodies in different parts of BiH, with no coordination and little respect for any rules. The broadcasters in many cases did not apply for any license at all but just started broadcasting or changed frequencies or other parameters”*¹³.

The way chosen to solve the situation was to adopt a plan in two phases. The first phase consisted in issuing provisional and temporary licenses to the existing broadcasters, and the second one consisted in issuing long-term licenses via a “merit-based” competition between the applicants, which could be existing broadcasters as well as potential new entrants. The link between the two phases was created in deciding that the quality of the programming and the behavior of the broadcaster benefiting of the temporary license during the first phase would be taken into consideration in evaluating the applicants to a long-term license.

More precisely, the applications were evaluated by using the following criteria:

- evaluation, by programme analysts, of the programme previously aired, using the criteria of :
 - impartiality of information;
 - quality of information (professionalism, respect of international standards of journalism ethics, ...);
 - coverage of local events;
 - contribution to the diversity of formats in the coverage area;
 - respect of regulations on commercial communications;
 - quality of the production and of on-air presentation;
- overall skill and entrepreneurship of the management, by assessing the business and marketing plans submitted;
- financial viability, by assessing financial reports, balance sheets, income statements and cash-flow reports for the previous two years and assessing the access to sources of financing in the future;
- demonstrated marketing skills and use of audience research data;
- potential market for the proposed service in the coverage area;
- quality of in-house technical staff and management;
- quality of studios and transmission facilities;
- demonstrated signal management abilities of technical staff.

¹³ CRA Report on the process of issuance of Long-Term Broadcasting Licenses in Bosnia and Herzegovina, April 2002.

- comparison between the quality of the programme aired and the description of the of the future programme made in the application;

After having awarded a certain amount of “positive” points to each application through this evaluation process, the next step of the procedure was to possibly subtracting from the total number of points gained “negative” points if the applicant had previously violated the Broadcasting code (e.g. minus one point for each warning received, minus two point for each fine received, minus three points for each previous condemnation to suspend the programme...).

In terms of procedure, it is also worth mentioning that during the tender, all the applications were made public and a public consultation was open in order to allow the listeners or any interest parties to comment on these applications. Moreover, with the support of a research agency, the CRA set up 13 focus groups (on in each region of the country) of listeners in order to explore their reactions to the programmes currently available in their region, which provided the NRA with additional valuable information about how the public appreciate the existing radio stations.

At the end of this process, out of the 197 applicants, 141 were awarded licenses, among which 4 newly created radio stations. Even though the NRA tried as much as possible to ease the process and to help the applicants to provide all the relevant information, the level of success of the applicants were very different from one region to the other (Mostar 100 %, Konjic 100 %, Livno 94 %, Bugojno 90 %, Sarajevo 89 %, Trebinje 88 %, Kotor Varos 85 %, Bihac 76 %, Doboј 73 %, Banja Luka 72 %, Brcko 68 %, Gorazde 63 % and Tuzla 52 %), due partly to the amount of applicants, but also due to the lack of professionalism from of the applicants in dealing with the procedure.

Almost all the broadcasters closed down their operations by themselves, and the CRA had to physically enforce the close-down decisions for only three radio stations.

If the Bosnian radio landscape cannot be used as an interesting case study in economic terms (the broadcasting industry is seriously lacking revenues due to the overall economic situation), this case study however highlights the advantages of a regulatory framework in which the NRA possesses and took clear and full responsibilities in regulating the radio landscape:

- As a converged authority, it manages both cultural and technical aspects of the regulation, including planning, coordinating, allocating and assigning the use of the radio frequency spectrum;
- As an authority invested with a normative power, it determines through by-laws the content and programming obligations imposed on radio broadcasters.

This obviously leads to an easier implementation of public policy.

5. Conclusions and regulatory options

According to our understanding, the Slovenian radio landscape is facing the main following challenges:

1. obsolete and inadequate legislation (licensing procedures, content obligations, ownership and concentration rules...);
2. lack of coherence in public policy (several public bodies involved);
3. uneven playing field between similar market players (in terms of areas of coverage, content obligations, ...);
4. small advertising market in general, and radio advertising market shrinking in particular;
5. tension between fragmentation of some parts of the market and concentration of some other parts of the market;
6. contradictory calls for more/less regulation from the players and stakeholders (content obligations, ownership and concentration rules ...);
7. lack of appropriate coverage of the public targeted (for local, regional and national radios);
8. lack of diversity in supply (absence of certain formats in certain regions, presence of several same formats in other regions...);
9. in certain regions, high level of broadcast of the same content by (supposedly) independent radios.

In order to appropriately address these challenges, we recommend the following ways forward:

1. Rethink thoroughly the distribution of frequencies between the broadcasters. This would imply a two-step approach:
 - The first step would be to assess the distribution of the spectrum between the public service broadcaster and the private broadcasters. The different case studies have shown that very diverse policy options are available and that their success depends on a global approach of the technical, economic and cultural conditions. PSB should continue to be granted a privileged access to the spectrum in order to reach all the citizens of Slovenia, but such privilege should not lead to an unbalanced (or wasteful) distribution between public and private broadcasting. In this framework, considering the large amount of frequencies at its disposal in order to air only three programmes, a specific work on the optimization of the frequencies used by the public service broadcaster should be conducted, taking into consideration not only the quantity of frequencies, but also their quality.
 - The second step would be to reshape the private radio landscape by creating different categories of broadcasters, each category having its own regulatory framework both in terms of access to (and secured position on) the market and in terms of content obligations. These categories could for be for example the following: commercial national, commercial regional, commercial local, non-profit regional and non-profit local.

- In this framework, it has to be highlighted that the fact that there are currently no fully national private radio broadcasters is a unique situation in Europe (except Switzerland, but this is for historical reasons which do not apply to Slovenia). There is a very high probability that the two broadcasters which are currently covering a significant part of the country would warmly welcome the opportunity to enlarge their coverage to the whole country, since it would mean for them more commercial revenues. And allowing such a development in connection with a refreshed framework about content obligations (see below) might also be the opportunity to bring more activity on the sector and more diversity for the audience.
 - It has also to be highlighted that there are currently a large amount of regional broadcasters. This situation is not problematic as such, but in a situation in which there are no national private broadcasters, this might feed an out-of-control race on mergers and synergies of all kinds in order to reach if not a national audience, at least a critical mass. This might be reinforced by the fact that the coverage areas of these regional broadcasters differ a lot and in several cases have no rationality. Together with the assessment of the possibility to create a category of radio broadcasters of national coverage, it could thus also be worthy of interest to assess the opportunity to create a category of radio broadcasters or regional coverage, with a clear and predictable coverage area, which could for example be based on the administrative division of Slovenian and/or on coherent economic or cultural zones.
 - Finally, on this aspect, the sustainability of other categories of radios (for example commercial local or non-profit) should also be the subject of an assessment, both on their economic and cultural aspects.
2. As long as this task has not been completed, it should be avoided, as far as possible, to grant new frequencies on a case-by-case basis. The process should be as comprehensive as possible, addressing the radio landscape as a whole, and not individual and localized cases.
 3. For the same reason, it should be avoided, as far as possible, to renew licenses to use frequencies without tenders.
 4. If this cannot be avoided, it should at least be made clear that the license to use the frequencies will expire when the reshaping exercise will be completed.
 5. Rethinking thoroughly the technical framework should preferably go along with a second ambitious project, which is rethinking thoroughly the content obligations imposed on broadcasters, with a special care to :

- the sustainability of these obligations for the market players; a public consultation on this topic might be useful, in order to strike the most appropriate balance between the – often conflicting – interests of all the stakeholders;
 - the efficiency of the obligations in terms of public policy goals; a public consultation on this topic might also be useful, especially on the issue of content quotas
 - the level playing field between all the broadcasters in each of the different categories;
 - the opportunity to shift from a traditionally principle-based audiovisual policy to an outcome-based policy, marking the evolution from a regulation based on obligations (and eventually sanctions of breaches) to a regulation based on results (and eventually rewards of achievements)¹⁴;
 - the level of local content obligations. The European benchmark has shown that in several countries, broadcasters face difficulties in producing local content or doing local news coverage. If a specific category of local broadcasters is created, it is nevertheless essential that these local broadcasters address local audiences with local content. But a special care should be given to the appropriate level of obligation. It would be counterproductive to set up high standards which, in practice, will not be fulfilled. This would, on the regulatory side, create evitable burdens on AKOS in terms of control and infringement procedures and would probably, on the market side, recreate a tendency towards mergers in a newly created framework which will need the exact contrary, i.e. stabilization and assurance that the different players indeed play on different grounds.
6. Finally, we would recommend that, also in parallel to those two major tasks, a strategy for DAB should be launched. It was not in the scope of the present report to address the issue of DAB. What we would like to stress in the framework of this report is the link between an FM strategy and a DAB strategy. The impact each strategy will have on the other one should be duly taken into consideration, for three main reasons:
- the fact that the transition from analog to digital will imply a long period of simulcast;
 - the fact that, even though DAB represents an opportunity to have new players enter the market, the main players on both platforms will be the same ones;
 - the fact that the economic challenges (sustainability and profitability) and the cultural challenges (plurality of players and diversity of content) are of the same nature for both platforms.

Wagner-Hatfield remains of course at the disposal of AKOS should it deem necessary to realize additional research on any of these regulatory options.

¹⁴ This policy option has been detailed in our May 2014 study for AKOS entitled “Audiovisual policy and content obligations in a digital, connected and international audiovisual environment”.

Jean-François Furnémont and Marc Janssen,

Wagner-Hatfield,

February 2015.