Pluralism in broadcasting: problems and future

Joan Botella

The appearance of independent regulating authorities for broadcasting is a response to the need to ensure balanced competition given the multiplicity of operators and to protect the rights of users while, in other countries, these authorities arise in order to control the public media and to ensure that all media contribute to a democratic pedagogy. This article reviews the work carried out by the Audiovisual Council of Catalonia with regard to the observance of pluralism and concludes with an analysis of the three main challenges facing regulators in the future: the gaps in the current legislative framework for broadcasting, the transformation of the television map with the incorporation of new digital technologies (TDT, IPTV, etc.) and the content of regulatory intervention.

Keywords

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Introduction

The creation and setting up of independent regulating bodies for broadcasting has been in response to two different logics. On the one hand, in a certain number of countries (let's call them Anglo-Scandinavian, as a brief summary), an independent regulator was a requirement related to the plurality of operators, to the need to ensure a balance of power in the competitive arena, and to the need to protect the consumer-viewer. Within this context, the regulator is similar to other institutions of a regulatory nature and its action is not essentially different to the activity of regulators for telecommunications, energy or the stock market.

In other countries, the setting up of independent regulating authorities (hereinafter IRA) has followed a different and essentially democratic logic: coming out of periods of state monopoly in broadcasting, control of the state-owned media was required as well as ensuring the contribution of all media (public or private) to the democratic pedagogy of citizens. In this context, which is that of Spain, it is not unwarranted to subdivide this into two broad areas: that of the problematical democracies of southern Europe (starting with the French case, followed by Italy, Belgium, Portugal, Greece, etc.) and that of the new democracies arising in central and eastern Europe after the fall of the Soviet Union.

These two broad versions or perceptions of the role to be fulfilled by IRA go a long way to explaining the differences between these bodies in different countries, from how members are appointed to their territorial structure, including their degree of control over what is broadcast and their role in granting and supervising licences.

The commitments adopted by the CAC

When a project was set up in 1999 (by means of a tremendous parliamentary debate, the first of the legislature) to provide a general review of the broadcasting sector in Catalonia, this distinction was already present, albeit implicitly. The distinction between the two faces of pluralism was imported from the French experience (the French CSA was the best-known and most studied IRA at that time by Catalan specialists and legislators), namely *internal pluralism* and *external pluralism*. Grossly simplified, we may say that internal pluralism referred to the content of programming transmitted by broadcasters, whereas external pluralism referred to acquiring and exercising the role of operator per se. In other words, internal pluralism is related to *what is said*, while external pluralism is related to *who can say it*.

At first, the CAC was essentially given functions related to guaranteeing internal pluralism (excluding the licensing processes, which remained in the hands of the government). Moreover, this was internal pluralism in its broadest sense: in the terms of law itself, it was political, religious and cultural pluralism... So what were the problems that, in this area, arose in the Catalan media in the course of the year 2000?

As highlighted in the parliamentary debate of December 1999, there was a generalised perception that the dependency of the CCRTV (the Catalan Broadcasting Corporation) on the government was significantly felt in the programming of public media, particularly (but not only) in news programmes, and that this left the forces of opposition with a very limited role.

A second element was the consolidation, in the local Catalan area, of media owned at a municipal or supra-municipal level, leading to a perverse situation in which the media scenario reflected the different territorial levels of the political and administrative structure: in this way, every level of the institutional system had its own media.

And a third element under discussion was the role played by the public media (and, most importantly, once again the CCRTV) in the process of reconstructing the nation. From the linguistic uses of TV3 to the territorial areas included in its meteorological services, as well as the idiomatic registers used by announcers and presenters, the activist role of the Corporation's media was questioned in the area of "Catalanisation".

All these problems, plus the notion of internal pluralism, led (as is evident in the report, requested by the Parliament, that was drawn up by the Council in 2001 on the pluralism of news media in Catalonia) to the adoption of a hypothesis that might quite controversial. The Council understood that the notion of pluralism supposed a conception of broadcasting media (and primarily television) as interpreted by Stendhal, namely as a mirror in which society should recognise itself, with as few deformations as possible. This meant ensuring the presence of all areas of reality in programming content (especially news but not exclusively), in a proportion approximately equivalent to their relative importance in society.

To give a simple example: what are the territorial areas that go to make up the Catalan reality? In the world of news, what causes us to think, on screen, of the Barcelona area, the Terres de l'Ebre or the Alt Pirineu?

With the same logic but with less simple implications, the presence of various political forces and voices on screen had to be proportional to their relative weight in the Catalan political and institutional situation; and that means, with more or less accuracy, the number of votes they had in the last elections.

The idea of pluralism as proportionality was therefore encouraged, as a way of ensuring balance, resemblance between the scenario described by the media and the existing social reality. This notion, and some of the practices deriving from it (as we will see), are related directly to the French CSA tradition, which every month publishes the distribution of coverage for the different political forces on all television channels, and which is calling for public and private television channels to diversify the ethnic identities of their presenters so that all French people (whatever the colour of their skin) are reflected.

However, we also need to see how another logic was spreading in various European countries at the same time: namely the presence in the media of all voices and all ideas, based on an objective assessment of their interest, this being assessed and decided by news professionals. The adoption in Italy of the so-called *paris conditio*, in other words a situation of parity, led to the decision that, in the political debates that are so frequent on Italian television,

the presence of each political force should be defined with equal weight, not as a proportional reflection of its electoral weight. A similar approach was set up in Holland and in Scandinavian countries and, although not going so far, with the British BBC, where it was established that the presence of the different political forces should be calculated not on the basis of exact percentage results but on three "slices", corresponding respectively to the largest parties, middle-sized parties with parliamentary representation and local parties.

From the methodology adopted by the CAC, and explained in the report presented to Parliament in 2001, derived the practice of publishing monthly reports in "sliding quarters", exhaustively copying out the content of news programmes dedicated to Catalonia by the different television channels was (from TV3 to local Catalan programmes on Spanish channels, when there were any). Later on, chat programmes, debates and interviews were also included. A similar measure was also adopted for radio programming.

It should be noted that the CAC could do not more than this, given that the legislation did not define what should be understood by *pluralism* (although it was interpreted that the legislator's acceptance of the 2001 report, which had proposed a *proportionalist* hypothesis, was sufficient cover) and especially because no penalty had been established for anyone violating this obligation. In this case, all that could be done was to publish the findings and hope that this would generate a certain pressure by the environment on those media that had digressed furthest from the suggested overall guidelines. In this respect, people put their trust in the impact that the moral authority of the Council may have (hoping that *moral* would mean, in this context, a little more than the football term of a *moral victory*...).

There are three broad dimensions that were poorly handled by this approach:

1. The co-existence of media covering Catalonia and state-wide media. Obviously the Council only has authority over the former but the absence of a regulating authority at a Spanish level gave rise to a situation of negative asymmetry for Catalan operators, who might be more or less exposed to criticism on a monthly basis, while Spanish operators avoided this situation. So, for example, the deviation of TVE's content in the last few years of the Aznar government was not analysed objectively (the political criticism of parties is another matter), while TVC's news was submitted to close observation.
   However, this could mean ignoring the fact that, under normal conditions, although TVC is the most watched operator in Catalonia and the most highly valued by viewers, more than half the Catalan population watch news broadcast by non-Catalan channels.

2. The existence of a thriving local communicative landscape in Catalonia. More than one hundred local television stations have been identified (divided equally between public and commercial) and close to 400 radio stations in all kinds of situations imaginable; the mere distinction between public and private radio is of little help when there are channels of all kinds, ostensibly community broadcasters transmitting from municipal offices, public broadcasters managed by private operators, etc. Obviously, monitoring programmes at a local level exhaustively was and is impossible. Here a complaints channel should be opened along the editorial lines followed by certain local media, which the CAC could analyse and attempt to arbitrate.

3. The lack of distinction between publicly and privately owned media in television. This means that, even today, the obligations of one or the other in terms of the content of their respective programmes are identical. So public television is just as obliged to follow the principle of pluralism as private television, a local the same as a wide-ranging one, and even a generalist channel the same as a specialist channel. Constitutional provisions and, subsequently, the public general act regulating Spanish radio and television (which, as its name suggests, is applied to all television stations operating in Spain) correspond to an earlier system where there were no privately owned television channels, nor channels for autonomous communities or local areas. This equality of legal systems for public and private media, although their contexts are completely different, has led to constant muttering that has reached the extent where, today, people accept, for intuitive reasons, that it is not sensible to attribute the same volume of obligations to all broadcasters but where there is no consensus as to which obligations should be for public operators and therefore which obligations private operators can be exempt from.

Initial assessment

After a relatively long experience in monitoring media programmes in Catalonia (as presented in this edition of *Quaderns*), what conclusions can be drawn, especially in terms of performance?

Any reader with the chance to examine successively the different reports published from 2001 to date would observe, firstly, that the excesses that had been observed in Catalan or local media with regard to the disproportionate presence of political authorities in programming in contrast to the undervaluing of parties and figures of the opposition, have gradually decreased. It is evident how, especially in the area of local media, the opposition has gradually acquired more presence and more visibility. Can this evolution be attributed to the activity of the CAC? I think that, to a large degree, the answer must undoubtedly be yes. The fact that the composition of the various programmes is published every month and in a comparable format has led to channels approaching the norm, to reducing those practices that were less in line with what is considered acceptable.

However, is this a suitable methodology for any study on the content of news programmes? Probably not. Building structures of perception, attempts at manipulation and the quality of the information provided cannot be measured in minutes or screen time or the percentages of different agents. But this is not a criticism of the methodology employed by the CAC. It is rather an invitation to those who propose other areas of intervention to draw up and put forward alternative or complementary methodologies and strategies of analysis. The old claim, for example, for the need to include qualitative elements in the CAC's monthly reports does not only *reek of humanities* but also falters against the fact that the CSA (which has an easier task than the CAC: few broadcasters and all at the state level of France) does nothing more, in the area of pluralism, than publish figures; and there must be a reason for this.

Finally, in the area of reality, has the CAC's work helped to reduce or prevent abuse or violations of the principle of pluralism? With regard to TVC, both the analyses carried out of the programmes per se as well as citizens' perception of these programmes show there is no visible situation where the principle of pluralism is violated. It is true that there has been an evolution and it is also true that, in certain

areas (such as religious or linguistic), perception is more controversial but, in general, both CAC's indicators and viewer perception (measured in the survey carried out by the CAC every year) show a series of perfectly respectable practices.

In the area of local communication, the situation must be different. Probably the larger local media, more closely related to the Barcelona area, have gradually adopted professional guidelines that are more sensitive to the demands of pluralism, with more respectful content in terms of political minorities. But it is also probably true that, if we look at smaller territorial areas where tougher situations may exist, the reality is less satisfactory. The financial shortages of some media (normal in a situation of too many suppliers) place them in a vulnerable position where they can easily become subject to undesirable demands or pressures. Some cases that have reached the Council suggest that this is a reality whose size and scope are difficult to conjecture.

Towards the future: a complex scenario

What are the possible lines of development from here on? I don't propose to speculate as to the evolutionary trends of the media but to review the elements that, already present in our present situation or about to appear, will force us to rethink the strategy followed by the Council.

Without doubt, the gaps in the existing legal framework are a primary factor that must be taken into account. Certainly the passing of the Act on broadcasting in Catalonia (December 2005) is a key regulatory element but it is still at a precarious stage; it is awaiting the outcome of the appeal brought before the Constitutional Court. Moreover, the existing legal framework provided by the public general act has not been modified. The announced general Spanish act on broadcasting has disappeared from the political agenda and I'm afraid for some time (at least while relations between the government and the opposition continue as present). It is therefore to be expected that there is still no distinction made between public and private broadcasters, in a situation that lacks a legal definition of what *pluralism* means and with an extremely broad supply of broadcasts in often precarious legal conditions.

Obviously this also applies to the possibility of creating a Spanish Broadcasting Media Council, or a body with a similar name, to cover the gap that exists exceptionally in Spain. Neither is there any clear indication as to whether this issue will be resolved: the Spanish government has managed to make the article disappear from the Directive project (December 2006) to review the old European Television Without Frontiers Directive, which had established the obligation to create independent regulatory bodies in each state.

The second great challenge will be the digitalisation of television, which could lead to an incredible growth in suppliers. When CCRTV offers 8 programmes simultaneously, we will have to see if it is possible (and reasonable) to attempt to monitor these exhaustively. The appearance of TDT at a local level could have similar consequences: although, oddly enough, digitalisation in Catalonia will lead to a reduction in suppliers. In order for local broadcasters to become legal, they will have to take on obligations with regard to content whose compliance must be verified.

And that's not all. The expected extension of IPTV or even webcasting (as, for example, on VilaWeb) will mean adding yet another zero to the number of operators in Catalonia. How can we tackle this from the point of view of regulation? This question has no answer today. It is the question being asked by all European regulators, without anyone having found a suitable answer. I only note (because this would be the subject of a separate edition) that cooperation between regulators from different countries is starting to appear as a reasonable way of tackling this problem, at least in part.

The third great challenge is related to the form regulatory intervention should take. It seems clear that there were problems regarding the extent of effective pluralism in the media. These problems were of varying degrees depending on the media and things have clearly got better. However, is that all? If we are interested in studying the impact of broadcasting media on society, primarily political impact but also cultural impact (the spread or restriction of prejudices, promotion of certain values, etc.), how can it be measured in this context? And how can a regulator's actions help to achieve the objectives defined by the legislator? The growing concern of the CAC, beyond pluralism, for ensuring the quality of information provided to citizens, the impact of

the controversy concerning electoral blocks as well as the social alarm generated by content broadcast by the radio station COPE all show that ensuring plurality of presence in programming is a necessary but not sufficient requirement. The challenge continues to be to ensure the contribution of the broadcasting media to a decent policy within a democratic society, and this will continue to require the work of independent regulators.