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Structural Media Pluralism

Spain's Media Concentration Policy: A Patchwork Crucial to the Understanding of the Spanish Media System

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As a young democracy, Spain had huge expectations for media pluralism after the end of Franco's dictatorship in 1975. However, structural and historical forces have imposed a more prosaic evolution, where the regulation of media concentration has had more to do with media groups' interests than societal goals. At first, Spain's media ownership regulations laid down important limitations on media ownership, but as technology developed, these constraints were progressively relaxed through a large set of complex legal amendments in non-specific legislative acts. However, the absence of cross-media ownership rules is crucial to the understanding of the Spanish media system's dynamics and players. Spanish media have evolved from small newspaper companies to big multimedia groups. Fierce competition in an increasingly fragmented scenario is the result. This absence has led to the creation of five or six multimedia groups in Spain, which have made structural pluralism possible at a national level.

Introduction

Pluralism and its connection with media concentration is one of the most debated issues in media policy, and even in media studies (Albarran, 2004; Wasko, 2004). As media have become increasingly ubiquitous, their influence and power on reducing or improving political and social pluralism have been studied and researched across countries and periods by academics, institutions, and governments. As an anecdotal indicator, *The International Encyclopedia of Communication* has 178 entries for violence, 155 for public sphere, 309 for gender, 223 for concentration, and 89 for pluralism (Donsbach, 2008).

A first look at the issue shows that assessing media pluralism in any media system is highly complex. In accordance with a recent study on pluralism factors funded by the European Commission (K.U. Leuven et al., 2009), pluralism is a qualitative, broad concept and the result of several interrelated

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processes. It is affected by how the constitutional protection of press and communication freedom is defined and enforced, as well as by how efficiently editorial independence and cultural, geographical, and political pluralism are protected. It is also affected by how the diversity of media types and genres is fostered, and by how the press and broadcasting distribution sector impacts the variety of offerings. At the same time, it is necessary to take into account how regulation is enforced and supervised by a parliament or an independent media authority. Finally, it is vital to analyze how this content is present in each citizen's media consumption to verify the levels of pluralism on the demand side. It is clear that such a large number of concepts and variables account for how difficult it is to assess the level of pluralism in certain media systems, and this objective exceeds the aim of this article. We need to reduce the complexity of reality, and to do so, a first step is to focus on external pluralism.

For its theoretical framework, this article follows Doyle's (2002) and the Council of Europe's (1994) definitions of pluralism, understood as the concurrence between internal and external pluralism. Internal pluralism refers to the diversity of media content offering independent voices, diverse political opinions, and different representations of citizens in the media; whereas external pluralism refers to the diversity of media owners, reflected both by the plurality of independent and autonomous media. Therefore, the idea of pluralism encompasses and requires both a diversity of media content and a diversity of media owners. However, this article will focus on external pluralism through regulation and media policy, as well as on its impact on the Spanish media system. It will study the evolution of media regulation and its impact on different media, rather than the diversity of content offered to the general public. The research approach is, therefore, much more straightforward, and it leads to an analysis of a clear, verifiable, and precise set of facts and regulations. Even though this implies a partial view of the concept of pluralism, it is a first and necessary step because it provides some insight into this issue.

In line with this approach, the aim of this article is to demonstrate how media regulation on structural pluralism has had such a profound impact on Spanish media companies that it has actually shaped them. Finally, it will be shown how Spain developed, sometimes unknowingly, its own media pluralism policy based on limiting the ownership of national broadcasting stations and avoiding cross-media regulation. Both facts explain many of the trends and peculiarities of the Spanish media system in comparison to other Mediterranean European countries like France and Italy. Spain has averted a private broadcasting monopoly, unlike Italy, and a sector with weak media groups and strong media owners, unlike France.

Literature Review on Spanish External and Internal Pluralism

Pluralism, and especially political pluralism, is considered a sensitive issue in Spain's media policy debates, as described later. However, from the scholar's point of view, pluralism in both of its expressions—internal and external—has been studied rather patchily by Spanish researchers. On a theoretical level, several authors have worked on pluralism definitions and theoretical frameworks, quite often through the European Union dimension (Pérez Gómez, 2000; Miguel, 2004; Tomás, 2004; Llorens, 2001, 2003).

Internal pluralism, understood as a diversity of content offered by the media, has been researched in Spain by the regional Catalan Audiovisual Council (CAC), which developed a set of

theoretical and analytical models in order to build up a solid structure for the study of political pluralism in television news programs (CAC, 2006). As a result, this independent regulatory authority has carried out monthly studies on the presence of political pluralism in Catalan audiovisual media, studies which have been based on quantitative data since 2002 (CAC, 2002; 2009). News content on free-to-air television channels has been analyzed as well, and results show a uniformity of information that threatens internal pluralism (Soengas, 2005). Another study on internal diversity in e-newspapers with no hardcopy versions confirmed that they were adding little pluralism to the media system as a whole (Almiron, 2006).

Regarding external pluralism, it is possible to find some studies on external pluralism in specific sectors, based on media concentration tools. One example is Cabello (1999), who measured concentration in the Spanish magazine market. His research confirmed that six firms controlled 70% of the Spanish magazine market. The Spanish independent telecommunications authority, the Telecommunications Market Commission (CMT), a state authority created in 1997 and located in Barcelona, supervises, and in some areas regulates, the operations of telecommunications and audiovisual services and infrastructure. This independent body has published levels of concentration in audiovisual services in some of its annual reports (CMT, 2002, pp. 392–393; 2003, p. 90). Its results were based on turnover data as an indicator of market concentration. The results confirmed stable/declining concentration levels in the television sector, excepting the pay-TV market. The same general trend seems to be confirmed in a recent report on the health of Spanish democracy from a social democrat think tank, *Fundación Alternativas* (2008). According to this study, the sales share of the top 10 Spanish media companies fell from 62% in 2000 to 60% in 2005. The same study shows that, if television audience share were to be taken into account, the concentration index of the top three channels would fall from 76% in 2000 to 59% in 2005 (*ibid.*).

However, it is difficult to find general studies on Spanish external or structural media pluralism and its trends. There are some exceptions, like the work of Daniel E. Jones, who produced an exhaustive description of Spanish media groups in 2007; of Ana Isabel Segovia, who explained and described international media groups' strategies for penetrating the Spanish market; and of Núria Almiron, who provided an overview of the main Spanish private actors and expressed concern about the high level of concentration in the Spanish media market (Jones, 2007; Segovia, 2005; Almiron, 2009). From a critical perspective using descriptive methodologies, Reig (1999) and Labio (2006) could also be cited, since they presented the growing concentration process in the Spanish media sector.

Spanish external pluralism is also analyzed in international studies referring to several Western European countries (Sánchez-Tabernero, 1993; Nikoltchev (ed.), 2001, pp. 29–46; Sánchez-Tabernero & Carvajal, 2002; Ward, 2004, pp. 139–160; European Commission, 2007, pp. 83–85). Even though some of these studies are more descriptive than others, a summary of their results shows low media concentration levels in the Spanish press sector, a medium level in the Spanish television sector, and a high level in the Spanish radio sector. As stated in Ward's report:

The Spanish media sector has some of the lowest levels of concentration in the report. The country's high degree of regionalism supports a strong regional press and although there is a small market for national newspapers this is a relatively underdeveloped market. The television sector is highly competitive ... The major success in Spanish

television is the stable market share of regional public service broadcasters that collectively enjoy a considerable market position ... The radio sector is slightly more concentrated than the television one and although there are over 1,000 stations with regional or national coverage, a high degree of syndication and a high degree of horizontal integration means concentration is high. (Ward, 2004)

The objective of the next section is to explain how this general picture has been shaped by Spain's history and culture.

History and Policy as an Explanation for the Spanish Media System

According to Humphreys (1996), political and cultural factors are crucial when it comes to explaining structural differences between European media systems, whereas technological and financial factors make them converge over time. Technology is a convergent force for Hallin and Mancini (2004, p. 259), who, however, emphasize how Western media systems are shaped by the wider context of political history, structure, and culture. Spain is not an exception.

Spain is a relatively young democracy, as it was only 36 years ago (1975) when Franco died after nearly 40 years of dictatorship. Two years later, Spain successfully became a democracy when the first free elections took place on June 15, 1977. As a consequence, the first democratically elected president, Adolfo Suárez, initiated the process for the elaboration of the Spanish Constitution with other political forces; the Constitution was finally approved in 1978. This happened 11 years before some Eastern European countries successfully restored their democracies after their post-World War II communist dictatorial regimes. However, similarities stop there if we want to compare Spain with the former Soviet-dominated countries. Spain suffered a dictatorial regime, not a totalitarian system like Poland, Hungary, or the Ukraine. Even though political and ideological pluralism was forbidden and persecuted in both cases, a free-market economy in Spain was first tolerated and then, from 1958 onwards, fostered and fully developed by Franco's authorities. As an example of this mix between a certain economic freedom and constraints on liberties, one could cite the case of Spanish private radio. Two main aspects of Spanish private radio were strictly controlled by the authorities: news content and ownership. However, radio stations were never nationalized, and they were allowed to remain private and pursue commercial operations. This dichotomy was replicated in the Spanish Broadcasting Corporation (RTVE), since it was considered a key tool for the preservation of the dictatorial ideology, even though advertising was considered to be a normal source of income. When democracy came, these principles—state control and commercialization—changed, but not enough to reach European standards. A cited example is RTVE. In line with Iosifides' categories, it was a state television broadcaster until very recently, and not a public television broadcaster. The reason for this is that, from the very beginning, it had promoted government interests and not public ones (Iosifidis, 2007). Only a new 2006 law on public broadcasting provided RTVE with a certain level of autonomy and editorial independence, as a new control and supervision system exercised by the parliament moved direct government influences away.

After the end of dictatorship (1975) and as young democracy, Spain had huge expectations for political pluralism, and this was reflected in the 1978 Spanish Constitution. Its first article states that

Spain constitutes itself into a social and democratic state of law which advocates liberty, justice, equality, and political pluralism as the supreme values of its legal order. Another reference to pluralism, albeit more related to internal pluralism in public media, can be found in Article 20.3. It states that the law shall regulate the organization and parliamentary control of social communications media owned by the state or any public entity, and shall guarantee access to those media by the main social and political groups, respecting the pluralism of society and the various languages of Spain. Lastly, as censorship was one of the worse reminders of Franco's dictatorship, it was strictly forbidden in Article 20.4 unless granted by court order.

Therefore, pluralism, and political pluralism in particular, was the prevailing idea during the initial years of restored Spanish democracy. Media were an important factor in this equation of pluralism and democracy. This can be explained by the fact that one of the main drivers of Spanish democratization was the media sector, along with certain press groups and radio networks (Zugasti, 2008; Barrera, 2002). Due to their role in the active shift from dictatorship to democracy, the press groups (many of which were still run as family businesses) had important economic and political influence, which they used to try and avoid any limitation on their activities, and to obtain subsidies. On top of that, any government intervention in private media, especially in the press, would have been understood as an attempt to enforce the former, detestable censorship applied under Franco's regime. Both factors—influence and memory—meant that any constraint on press ownership initially, and any limitation on cross-media expansion subsequently, were unthinkable. Regarding the latter of the two, this was particularly the case with the advent of private television at the end of the 1980s.

Nevertheless, besides history, market size and wealth are important aspects that impact external pluralism in a particular geographical area, as Doyle (2002) and a recent study on pluralism (K.U. Leuven et al., 2009) have highlighted.

Spain holds a peculiar position because it could be considered the first of the medium-size EU countries alongside Poland, or the last of the big European countries after Germany, the United Kingdom, France and Italy. Spain had a population of 37 million inhabitants in 1981, and 46 million in 2008 (INE, 2009), a 24% increase in 27 years. The growth of Spain's GDP per capita has also been remarkable: an 89% increase from €8,104 in 1981 to €15,335 in 2008 (IMF, 2009).¹

Therefore, Spain is a wealthy country, with a big advertising sector which uses media and television, in particular, as the main channels for conveying mass advertising to society. This is good news for media owners. Spain invested 0.74% of its GDP in above-the-line advertising (media advertising) in 2007, whereas Italy invested 0.67%, and France invested 0.64%. The media weight in advertising investment makes this difference even greater; France spends 63.5% of its whole advertising budget on below-the-line advertising; Spain spends 55.7% (IREP, 2008; Infoadex, 2010). Therefore, Spain's media advertising expenditure is relatively greater than other EU countries' spending, and it should allow for more players and more external pluralism.

¹ Gross domestic product per capita, constant prices.

To get a complete overview of the Spanish media system, it is important to understand that it has a three-layer media structure based on geographical boundaries: national, regional, and local. There are geographical and historical reasons for this structure. First, large distances, poor transport networks, and low-density population explain why there were, from the very beginning, so few national newspapers in Spain. Moreover, the regional press was more reactive to strong regional interests. As a political factor, this three-layer structure was reinforced in reaction to Franco's dictatorial policies. His government was strictly centralist and against any regional self-governance, which was a prevailing aspiration in Catalonia, the Basque Country, and to a lesser extent, Galicia. Consequently, the newly restored democracy established a decentralized, federal system similar to Germany's. The 17 Spanish regions, called "Autonomías," are similar to the German "Länder." "Autonomías" only have power over radio and television operators in their territories. Unlike the German case, the Spanish state has retained control over national broadcasting activities and spectrum management. Therefore, in Spain, there is a national broadcasting sector that is regulated by the central government, and the regional and local broadcasting sectors are regulated by each regional government.

As a result of these historical circumstances, some regional media were, and still are, more important than their national counterparts. The reason for this is that they are able to respond better to the dominant regional outlooks prevailing in Catalonia, the Basque Country, Andalusia, and Galicia, where cultural identities are strong. Something similar happens with local press and radio, albeit to a lesser extent. This means that only four or five low-circulation newspapers are truly national, and that they are competing against powerful regional and local newspapers.

Consequently, Spanish press concentration is one of the lowest in Western European countries (Ward, 2004; Sánchez-Tabernero & Carvajal, 2001). With regard to broadcasting, this regional layer has been dominated by regional public broadcasters, which have enjoyed a significant market position in certain regions for some time—15% of the Spanish audience share as a whole in 2008 (Noticias de la Comunicación, 2009). The local media layer, however, is small and under-resourced, except in big cities like Madrid and Barcelona. Local radio and press are the dominant media in this layer, even though some local television stations are well established in Catalonia and Andalusia.

Regulating Spanish External Pluralism: Yes, But Only Television and Radio

As a national press sector with low levels of concentration, the Spanish press' role in democratizing the country and its influence and aversion to any censorship-like regulation help to explain why there has not been any regulation to limit press concentration or ownership in Spain. In fact, legislation does not prescribe any sector-specific limit on asset ownership in the newspaper sector. Furthermore, there are no specific cross-media constraints, and companies are allowed to hold assets across different media sectors as long as they comply with general competition law and horizontal media ownership rules applicable to the broadcasting sector. As a result, Spain could be considered an exception because it lacks any cross-media ownership rules, which are in place in Italy, France, the United Kingdom, Germany, and the United States (see Table 1).

Table 1. Comparison of Media Ownership Rules in Selected Countries.

Country	Limits on television ownership	Limits on radio ownership	Limits on press ownership	Limits on cross-media ownership	Limits on foreign ownership
France	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Italy	<input type="checkbox"/>	—	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
USA	<input type="checkbox"/>	<input type="checkbox"/>	—	<input type="checkbox"/>	<input type="checkbox"/>
Germany	<input type="checkbox"/>	—	<input type="checkbox"/>	<input type="checkbox"/>	—
Spain	<input type="checkbox"/>	<input type="checkbox"/>	—	—	<input type="checkbox"/>

Source: DCMS, cited by Ofcom (2006, p. 14) and the European Commission (2007, pp. 42, 54–55).

This lack of cross-media regulation has profoundly shaped the Spanish media sector, making it quite different from those in other similar countries, like France or Italy. Spain has several medium-size multimedia groups, and they compete fiercely. As a result, it is a media landscape that is very different from Italy's monopoly or France's weak media system with isolated single-medium groups. There are two main reasons that go to explain this difference: first, strict single-medium concentration regulation, which focused on broadcasting and prevented monopoly situations from the very start (even though progressive liberalization has taken place), and second, the absence of cross-media ownership rules, which made it possible for multimedia groups to become vertically integrated. How these single-medium ownership rules applicable to broadcasting were enacted, and how they evolved, will be described later.

Although the Spanish press sector was not subjected to regulation for pluralism protection purposes, television and radio were a different matter. Media ownership regulations applicable to broadcasting were considered necessary to protect pluralism and diversity and avoid a potential abuse of media power, as was the case with public broadcasting under Franco's dictatorship. When Spain's big press groups decided to lobby socialist governments to begin private television broadcasts in the mid 1980s, it was already evident that television was more pervasive and influential than any other medium. For technical reasons, there were only three national television channels available for commercial purposes, and it was considered that giving even only one of these channels to one operator was politically risky. A socialist government decided to assure each television station's internal pluralism through a high level of shareholder pluralism to prevent any disproportionate concentration of power in the hands of one corporate or physical person. It was important to prevent the incipient Italian experience, where Berlusconi had a grip on commercial broadcasting. Consequently, the 1988 Spanish Private Television Act established that no individual or institution could hold more than 25% of the shares

in any of the three national licenses available (Act 10/1988). The idea behind this regulation was that protecting each company's ownership pluralism was a necessary step to avoid any threat to external pluralism. It was also a way to protect internal pluralism; no single company could have complete control over a private television broadcasting license, because a minimum of four shareholders was required. As a result, Spain's private television companies—Antena 3, Telecinco, and Canal+—were created through an alliance between finance companies, banks, foreign media firms, other non-media investors, and national press groups. There were two business models: Telecinco and Antena 3 were commercial, free-to-air channels, whereas Canal+ was a pay-TV channel with some free-to-air programs. Therefore, there were four players in Spain's national television broadcasting sector: two commercial free-to-air channels (Telecinco and Antena 3) competing with a public free-to-air channel (TVE, funded through extensive advertising) and a pay-TV channel (Canal+, which was not battling for advertising revenues). As a result, a commercial broadcasting oligopoly developed, with three players, two private and one public.

Regarding internal pluralism, Telecinco and Antena 3 were very wary of taking any clear ideological stance on political issues. The aim was to maximize audience figures, so it was dangerous to exclude a large percentage of viewers by taking a stance on political controversies. As operators in an oligopoly, Spain's two main national private broadcasters were commercially keen to sit on the ideological fence, focusing their efforts on offering entertainment and producing popular, sensationalist news programs. However, when political controversy began to peak in the mid-1990s, every strategy and every change in ownership was interpreted in political terms. This led to a more obvious ideological bias in news programming offered by private broadcasters (Soengas, 2005).

Media Ownership Rules: A Long Path to Liberalization

The initial 25% share-ownership threshold in a national broadcasting license has been amended several times in the last 20 years, always in the same direction of liberalization. After the approval of the 1988 Private Television Act, television shareholders demanded more flexibility to enhance their channels' management efficiency. Some of their arguments were that such flexibility would make expansion strategies easier and protect their investments from cyclical crises. These arguments became more convincing when the first conservative government since the restoration of democracy took power in 1996, remaining in office until 2004. It approved an initial reform of Act 10/1988, which raised the threshold of shares that a single shareholder could hold in a television company from 25% to 49% in 1998 (Act 50/1998). A second reform, in 2002, brought about a series of minor amendments to the existing broadcasting anti-trust legislation relating to regional and local television networks (Act 53/2002). The third reform of the Private Television Act was more important: Any shareholder was now able to hold 100% of the shares in a national television station, provided that it held no more than 5% in another television station (Act 62/2003).

Therefore, internal pluralism through the diversity of shareholders was abandoned as a rationale for protecting pluralism. In fact, these amendments were made as a result of the main television operators' particular problems, or to help like-minded media companies to adapt to ownership thresholds. This was the case when the Telefonica sought greater control over Antena 3 in 1998, and when Vocento, a

press group, sought a dual presence in two national broadcasting licenses, those of Telecinco and NeoTV, a national digital channel, in 2003.

The 2003 reform also established some provisions to limit concentration in the three different layers—national, regional and local—that still exist. First, these provisions forbid holders of national television broadcasting licenses to hold shares in holders of regional or local television broadcasting licenses when the population of both areas exceeds 25% of the entire Spanish population. This prohibition also affects companies with shareholdings in a regional station that are also interested in holding shares in a local station: corporate or physical persons directly or indirectly holding 5% of the capital or of the voting rights of a regional broadcasting license-holder cannot have a significant participation in any other local station with the same coverage when the population covered exceeds 25% of the regional total. As a final safeguard, where an individual holds a significant part of the share capital or the voting rights of a national, regional, or local broadcasting license-holder, that person cannot have a significant interest in national, regional, or local broadcasting license-holders whose programs can be simultaneously received in the same area. Therefore, it is possible to have shareholdings in local and regional stations, but not in the same area. Significant participation means directly or indirectly holding 5% or more of the share capital or voting rights of a broadcasting license-holder.

These amendments to media ownership regulation were generally made through Taxation, Administrative Provisions and Social Affairs Acts, which are approved at the end of each year, together with the annual Budget Acts. The main aim of the former is to introduce amendments to existing provisions, thus acting as a package of amendments to existing laws, without needing to allow a specific debate on the subject in parliament. This kind of covert or urgent reform of television regulation is a constant feature of Spain's media policy, as recent developments have shown. Although the procedure is legal, it leads to decisions that are not necessarily beneficial from a democratic viewpoint, because it creates a patchwork of general and urgent laws for broadcasting regulation. As a result, broadcasters have easily been able to negotiate their influence over broadcasting regulation, which has increased the incoherence and inconsistency of Spanish broadcasting regulation, thus threatening the legal certainty of some operators. This may be yet another example of the weak development of rational-legal authority common to Mediterranean countries according to the concepts developed by Hallin and Mancini (2004).

More recently, the latest socialist government of Prime Minister Rodríguez Zapatero made another important reform of media concentration regulation through Act 10/2005 on Urgent Measures for the promotion of Digital Terrestrial Television, Cable TV Liberalization and Promotion of Media Pluralism in 2005. The new act revoked Article 4.3 of Act 10/1988, which limited the number of national analog terrestrial television broadcasting licenses to three. As a result, the government was able to grant new national analog terrestrial television broadcasting licenses if frequencies were available. And indeed, they were. Consequently, a fourth national analog terrestrial television broadcasting license (La Sexta) was granted in 2006 to a new multimedia group created by the independent Spanish producers MediaPro and Globomedia, along with the Mexican media group Televisa.

Simultaneously, another important change in the Spanish television landscape took place. In 2006, the above-mentioned socialist government approved a change in the license-holding conditions for

Canal+, until then a pay-TV channel, to allow it to become a commercial free-to-air channel. Canal+ became Cuatro, a new commercial channel. The television advertising market was still buoyant in 2006, and PRISA, Spain's biggest media group, saw a new opportunity to increase its revenue. Moreover, as a main shareholder in Sogecable, it already had a digital pay-TV multichannel platform, Digital+. It realized that there was no need to waste a free-to-air analog television broadcasting license on a pay-TV model that left the whole television advertising market to the other two operators, Antena 3 and Telecinco. Consequently, since 2006, the two new channels—Cuatro and La Sexta—have been trying to break down the oligopoly formed by Telecinco (owned by Berlusconi's Mediaset firm) and Antena 3 (owned by the main Spanish publisher, Planeta). The arguments for enlarging the number of operators were based on pluralism rhetoric, as the title of the act itself suggests. However, the opposition parties claimed that the two regulatory changes were made to help multimedia groups like PRISA and MediaPro, both of which are ideologically aligned with the governing socialist party, PSOE. Therefore, there were four big commercial players—Antena 3, Telecinco, Cuatro, and La Sexta—on the national analog television broadcasting landscape from 2006 until the digital switchover in 2010. Regarding public television, there was one national operator, RTVE, with two channels (La 1 and La 2), and multiple regional operators had their respective channels, all of them funded through advertising and regional subsidies.

However, the most important issue for the present and future of the Spanish broadcasting sector is how digital terrestrial television (DTT) will be structured. Spain is a country where television is mainly broadcast over the airwaves: In September 2008, 63% of Spanish households received broadcasts via this method (37% digital and 26% analog [INE, 2009b]). After the failure, in 2002, of QuieroTV, a station based on a pay-TV platform, the DTT expansion policy was set out in Act 10/2005. It established a road map to reach fully digital broadcasts of terrestrial television by April 2010. One of the main points of the act was the commitment to provide each analog operator with a multiplex if certain conditions on new digital technological developments and the promotion of DTT were fulfilled. Apart from the four broadcasters already mentioned (Antena 3, Telecinco, Cuatro and La Sexta), two "old" digital terrestrial operators were incorporated. These were NeoTV and VeoTV, which are now respectively owned by two powerful press media groups, Vocento (the owner of the national newspaper *ABC*) and UNEDISA (the owner of the national newspaper *El Mundo*). Both channels were granted licenses in 2001 and started broadcasting digitally when most Spanish households did not have any set-top boxes to receive them. Therefore, these stations have had very little relevance in the national broadcasting market until very recently, when the analog switch-off took place.

This DTT development strategy, established in 2005, marked the beginning of a new structure for national television broadcasting license-holders, one where there were six private groups, with each operating a multiplex capable of containing up to four or five channels: Antena 3, Telecinco, Cuatro, La Sexta, VeoTV, and NeoTV. All of them except Telecinco have a direct relationship with a press group or newspaper. Analog signals were switched off in April 2010. From an external pluralism point of view, DTT has increased Spain's number of national television broadcasting players, even though the two new operators are part of already-established media groups. There is no media outsider in sight.

Before analyzing the latest developments, including a considerable reform of media concentration regulation in 2009, it is important to describe other aspects of this policy. Regarding the radio sector,

ownership regulation is based on Telecommunications Act 31/1987, later amended by Act 10/2005. It establishes that a corporate or physical person may control up to 50% of the radio broadcasting licenses available in a certain area, so long as the total number of overlapping radio broadcasting licenses controlled in that area is no higher than five. A person can also control up to a third of the radio broadcasting licenses with total or partial coverage of the state. Where there is only one frequency available in a particular area, no corporate or physical person may control more than 40% of radio broadcasting licenses of that kind in the same region or autonomía. These percentages are calculated by excluding public radio stations, and the limits are applied separately to analog and digital radio stations.

Regarding local terrestrial television, according to Act 41/1995, amended in 2002 and 2003, broadcasting license-holders cannot create a network or enter into networking agreements with other license-holders. Network programming is defined as 50% of total programming. They may do so only after the government of the region where they are located has given its authorization.

Regarding constraints on non-EU nationals, these have been in place since the establishment of Act 10/1988. The latest reform (Royal Decree-Law 1/2009) established that non-EU nationals can buy new shares only if a reciprocal principle with the country of origin is acknowledged. It also states that non-EU nationals or firms can directly or indirectly hold a maximum of 50% of broadcasting license-holder share capital.

Finally, community media have been taken into account for the first time in Spain's media regulation. According to Act 56/2007 on Measures to the Promotion of the Information Society, the central government will plan local television frequencies for non-profit organizations if there are enough frequencies available. Advertising and teleshopping are forbidden, but not sponsorship. Nonprofit organizations interested in these local licenses cannot be holders of any other national, regional, or local television broadcasting license. This provision attempts to ensure that all applicants have links with local communities.

Europeanization of Media Concentration Regulation

It is a well-known fact that the European Union tried and finally failed to harmonize European external pluralism regulation in the mid-1990s (Harcourt, 2005; Llorens, 2001). However, this attempt spread to EU member states, making a new toolbox of concepts to prevent media concentration appear rather attractive. The main idea was to replace regulations based on constraints on ownership with controls over audience shares, either for a specific medium (single-medium audience share) or for multiple media (multimedia audience share). A similar system was already in force in the United States under the Telecommunications Act of 1996. It laid down that no network could buy new stations if it had achieved 30% of the potential U.S. national audience. The European Commission suggested a similar policy tool in its directive proposal for harmonizing pluralism. Even though it finally failed to obtain enough political backing to be approved, some of the concepts filtered down to the national level. As Harcourt has shown (2005, p. 195), the EC influence on this matter was important, and audience share as a new tool to control media concentration was adopted in Germany (1996), the United Kingdom (1996), France (2000), Ireland (2001), Romania (2003), and very restrictively in the Netherlands (2007). This Europeanization of

media regulation reached Spain later than it did in other countries, because national broadcasting license availability was limited to two licenses until 2006, and to four until 2010. Therefore, there was no need to control audiences with so few firms in the field. However, DTT developments, which imply a multiplication of channels and operators, along with a set of internal and external factors, can explain why Spanish external pluralism regulation was profoundly changed in 2009.

As an external factor, global economic crisis could be mentioned. It hit Spain's advertising sector in late 2008, affecting the already well-established Telecinco and Antena 3, but particularly, the newcomers Cuatro and La Sexta. Advertising investment in Spanish television was 11% lower in 2008 than in 2007, and a further 23.2% lower in 2009 (Infoadex, 2009, 2010). Consequently, Spain's entire broadcasting sector was in jeopardy, when only three years earlier (2005) it was the most profitable television market in the EU, with a 41.2% profit margin (EAO, 2008). The private operators decided to lobby the government in two directions: first, to change the ownership rules in order to allow mergers between them, and second, to remove advertising from the national public broadcasting channel, TVE, which had a revenue of €422 million in 2009, about a fifth of the total advertising investment in the Spanish television sector (Infoadex, 2010). The government accepted this last measure in exchange for a new tax on commercial operators (3% of revenue) and telecommunications operators (0.9% of revenue) to fund a new, advertising-free TVE from January 2010. These changes have been included in a new law on RTVE funding, which was discussed in parliament and finally approved in the summer of 2009 (Act 7/2009).

The first measure, relaxing media ownership rules, could be considered the most profound reform of media concentration regulation since 1989. It took place as the government issued a Royal Decree-Law 1/2009 on Urgent Measures on Telecommunications in February 2009, which amended Private Television Act 10/1988. It was validated by parliament in March 2009. The use of an urgent decree was criticized, as it was, again, a tactic to avoid a broad parliamentary debate on audiovisual matters. It reminds us again of the usual and suspect Spanish way of using no specific laws to regulate broadcasting and to mix up audiovisual issues with other fields. As an example of this behavior, in addition to the reform of the 1988 Private Television Act, this new regulation also encompassed the creation of a consumer protection office for energy products.

Regarding media pluralism regulation, the new decree retained the principle whereby a corporate or physical person directly or indirectly holding 5% or more of the share capital or voting rights of a broadcasting license-holder cannot have a significant shareholding in any other company within the same coverage area. However, there is an important exception for national broadcasting license-holders: they are allowed to hold various and simultaneous shares in several national television stations as a result of a merger, so long as their average audience is no higher than 27% of the total audience over the 12 consecutive months prior to an acquisition. The percentage figure was carefully chosen because it only prevents a merger between the two dominant commercial operators in Spain: Telecinco and Antena 3.

As an external pluralism safeguard, it mentions that no corporate or physical person directly or indirectly holding rights in a national broadcasting license-holder can acquire a significant shareholding or voting rights in other broadcasting license-holders when such an acquisition would involve negating the

presence of at least three national broadcasting license-holders. Therefore, a minimum threshold of three independent operators was established. As another safeguard, this one for the future, the new regulation restricts the number of DTT multiplexes that can be owned by a single operator. If there are six national digital multiplexes in 2010, it establishes that no corporate or physical person can acquire significant shareholding or voting rights in a broadcasting license-holder when it involves controlling more than two multiplexes of the public spectrum. Again, a minimum of three multiplex operators have to be present in the market.

As a matter of fact, even before parliament validated the new regulation, some commercial operators were in merger talks, and PRISA had already sold Cuatro to Mediaset's Telecinco. La Sexta would be the next to merge with Antena 3.

Finally, the Government of Spain put a broadcasting bill before parliament in autumn 2009, which was eventually enacted as the General Broadcasting Act in May 2010. Even though the act does not offer new or amended norms on media concentration, it neatly compiles all the provisions already established under the Decree on Urgent Measures on Telecommunications of February 2009, which set a 27% audience threshold for a national broadcaster and a limit on multiplex ownership. The act also adapts Spain's regulation to the new European Audiovisual Media Services Directive (2007/65/EC), approves pay-TV DTT operations, fosters mobile DTT and high-definition DTT, amends the subsidies system for the film industry, and, at long last, creates an independent audiovisual regulatory authority.

The Spanish Media Landscape and External Media Pluralism: Conclusions

Having reviewed Spain's regulation of external media pluralism, it is now time to assess the results and the main trends of that regulation. Therefore, this analysis needs to look at the past and the present at one and the same time. If we look at the end of this process, Spain's current situation shows a healthy media landscape: no media monopoly in sight, no excessive fragmentation, and a relatively high number of medium-size media groups competing against each other. As Table 2 shows, there are six big national media groups in Spain—or seven, if the Spanish Broadcasting Corporation RTVE is included. However, a regional media group, Grupo Godó, has been included to show how important these medium-size media firms are for the Spanish media landscape. As many of the regulations on ownership have shown, establishing a concentration limit of 25% of audience share allows there to be a minimum of four players. For a medium-to-big country, that diversity of players is considered to be good. It could therefore be said that the situation in Spain is healthy, even though—as noted earlier—some mergers between players could reduce the plurality of actors in the television broadcasting sector in the future. The six big multimedia groups in Spain are PRISA, Planeta, MediaPro, UNEDISA, Vocento, and Telecinco. The Spanish Broadcasting Corporation RTVE could be included in this list, raising this number to seven. Another important aspect to take into account is the fact that each of them has a weak position in at least one of the traditional media outlets: radio, television, or press.

Table 2. Ranking of Spanish Multimedia Groups by Audience and Media Type.

	QUALITY PRESS		RADIO NON-THEMATIC		TELEVISION NON-THEMATIC	
PRISA	EL PAÍS	1 st	SER	1 st	CUATRO	4 th
PLANETA	LA RAZÓN	8 th	ONDA CERO	2 nd	ANTENA 3	2 nd
MEDIAPRO	PÚBLICO	21 st			LA SEXTA	5 th
TELECINCO					TELECINCO	1 st
UNEDISA	EL MUNDO	2 nd			VEOTV (DTT)	
VOCENTO	ABC	4 th	PUNTO RADIO	6 th	NEOTV (DTT)	
RTVE			RNE	4 th	LA 1	3 rd
GRUPOGODÓ*	LA VANGUARDIA	5 th	RAC1	8 th	8TV	

*Catalan regional group. Source: AIMC (2009).

PRISA, Spain's biggest media group, was struggling to achieve a survival share in commercial television with Cuatro. In radio and press, however, their leadership remained unchallenged. Planeta, a leading Spanish publisher, entered the broader media business a few years ago following Telefonica's retreat from media business in 2003. Since then, it has occupied second place in radio and television broadcasting. However, its newspapers have a low profile in terms of readership. The Italian-owned UNEDISA group is the opposite: It has had a big impact on generalist and specialist newspapers and magazines, while its broadcasting activities are weak. It has a small sports radio network, Radio Marca, and a digital terrestrial television channel, VeoTV, with a small audience. The Vocento group is in a similar situation; they have an important presence in national and regional press markets, but a lack of strength in the broadcasting field. Even though Vocento's national radio network, Punto Radio, has a certain impact, its commercial television channel, NeoTV, is digital and therefore had a limited audience until the completion of the analog switch-off in April 2010. MediaPro is a group founded on broadcasting production activities, and it is also a key trader of sport rights. It recently broke into the media business with La Sexta and started a new newspaper, *Público*. Its lack of a radio network and its difficulties in gaining significant readership and audience figures in press and broadcasting make this group less powerful than others, even though—as a main sports rights holder—it has a key position in broadcasting. Telecinco has a leading audience share in the commercial television segment in Spain. This broadcaster, owned by the Italian firm Mediaset, is an exception among Spanish media groups, because it only has broadcasting operations and does not intend to expand into press and radio sectors. It prefers to focus on television. However, it has to be said that, until 2008, institutional representation and control of news programs was led by press group Vocento, which held a 13% share in Telecinco. However, Vocento sold its last 5% stake in Telecinco in the summer of 2009. Telecinco has followed a single-medium strategy since it first began operations in 1990, and it has been a leader in audience shares and commercial revenues since 2004 (Noticias de la Comunicación, 2009). Its financial results have been excellent over the last five years, with annual profits between €200 million and €300 million, along with net turnovers between €900 million and €1 billion. Mediaset's single-medium

expansion strategy has recently been furthered; Telecinco bought Cuatro and 22% of Digital+, the main pay-TV platform, from PRISA, which was in financial difficulties.

Mediaset's holdings, together with Rizzoli's control of UNEDISA and DeAgostini's presence in Grupo Antena 3, make the Italian presence in the Spanish media sector quite meaningful. However, Spain has not become a commercial broadcasting monopoly like Italy has with Berlusconi's channels. Why is it that Spain has not followed Italy and the Mediterranean polarized model defined by Hallin and Mancini (2004)? The answer is clear: The strict initial limit on broadcasting license ownership, limited to 25% shares, was crucial to avoid repeating the Italian situation. No commercial television monopoly was possible, even after the 2004 reform, which permitted a 5% shareholding in other national television broadcasting licenses.

It is true that these rules have been relaxed by Spanish regulators since 2002, but the basic principle has been retained: No more than one television broadcasting license for any one owner. Only the recent advertising crisis and a multiplication of offerings brought in by DTT have forced audience share measures to be relaxed, but even those changes have featured important safeguards ensuring that there are at least three players in the broadcasting sector. Single-medium ownership constraints remain essential to preserving the plurality of offerings.

A second question arises when we compare the media landscapes of France and Spain. France is a wealthier country than Spain, and it has a much longer tradition of democracy. Its big media groups are specialized in certain sectors, such as pay-TV businesses (Canal+) or magazines (Lagardere). However, there is a lack of multimedia groups. It can be said that the press sector is weak, that broadcasting is strong, and that the radio sector is middling. The only group with a significant presence in all three traditional media (radio, television, and press) is, paradoxically, a German group, RTL, which owns the RTL radio network, the M6 television station, and the specialist press group Prisma (Llorens, 2006). In Italy, there is a strong broadcasting sector, a fragmented radio sector, and a strong press sector, but once again, there is no big multimedia group with the whole range of traditional media: radio, television, and press. Are the French cross-media ownership rules to blame? Single-cause explanations are perilous, but it is clear that cross-ownership constraints are quite tough in France, and they have played a role in this differentiation. According to French Act 86-1067, an operator may not be involved in more than two of the following situations: a potential television audience of 4 million, a potential radio audience of 30 million, a cable audience of 6 million, or a 20% share of national daily newspaper circulation.

On the other hand, the absence of Spanish cross-media ownership regulation has allowed big media groups to take hold, all of which compete fiercely against each other. This has also allowed strong groups to be built up, which are capable of sustaining media outlets while taking losses, or of selling whole multimedia advertising packages to big firms. If a diversity perspective is taken, the absence of cross-media regulation has been good enough to allow between six and seven medium-size media players to become established in Spain. Even if external pluralism regulation has been a policy patchwork and has often been subjected to media pressures and clientelist situations, the results show that this dual approach to external pluralism, the strict limitations on ownership and the absence of cross-media regulation, has been positive in Spain's case. It has found a balance between maximizing a certain

number of media players and financial viability, which has allowed these entities to compete in a whole range of media outlets and provide the Spanish audience with diversity. It is also important to remember that both the size and wealth of the market have played a significant role in the development of several medium-size multimedia groups, which are so characteristic of the Spanish media system.

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