HISTORY AND DEVELOPMENT OF THE COMMUNICATION REGULATORY AGENCY IN BOSNIA AND HERZEGOVINA 1998 – 2005

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Adin Sadic
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by

ADIN SADIC

has been approved for

the School of Telecommunications

and the College of Communication by

Gregory Newton
Associate Professor of Telecommunications

Gregory Shepherd
Interim Dean, College of Communication
During the war against Bosnia and Herzegovina (B&H) over 250,000 people were killed, and countless others were injured and lost loved ones. Almost half of the B&H population was forced from their homes. The ethnic map of the country was changed drastically and overall damage was estimated at US $100 billion. Experts agree that misuse of the media was largely responsible for the events that triggered the war and kept it going despite all attempts at peace. This study examines and follows the efforts of the international community to regulate the broadcast media environment in postwar B&H.

One of the greatest challenges for the international community in B&H was the elimination of hate language in the media. There was constant resistance from the local ethnocentric political parties in the establishment of the independent media regulatory body and implementation of new standards. The lack of a democratic heritage and the complex mix of cultures compounded the challenges facing the international community.

This study uses internal documents, decisions and laws imposed by the OHR, first hand reports and communication from international experts who were involved in the establishment of the IMC and CRA. Evidence suggests the IMC was successful in the establishment of the fundamental principles for media regulation where previously no consistent principles existed. The IMC was also successful in licensing media outlets and in its transition to the CRA. The CRA achieved its goals of establishing the cooperation of broadcasters and the public. The CRA made significant progress in the protection of
copyrights and creating a solid base for the development of a fair and competitive media environment. As a result, hate language has nearly vanished from the B&H media, although there still remains work to be done.

Several questions remain, however. There needs to be a better understanding of the failure of the OBN to involve the B&H media experts in developing solutions to the media problem and the inconsistency in applying the same set of standards for media warmongers in B&H and Rwanda.

Approved:

Gregory Newton

Associate Professor of Telecommunications
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This thesis is for my mother Alija and father Kadrija. Their love and support gave me strength to accomplish my goals.
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PREFACE

This is the first overall study of the Communication Regulatory Agency (CRA) in Bosnia and Herzegovina (B&H). The idea for this thesis emerged after the reconsideration of a wider topic, “Changes in Media Ownership Structure in Bosnia and Herzegovina in the Period of Transition 1990 – 2005.” A study on the development of the CRA has the potential to contribute significantly to complementing the analysis of the general media situation in B&H.

There are several main reasons for the lack of studies focused on the work of the Communication Regulatory Agency (CRA) in B&H. Bosnian media studies and the concept of journalism departments are traditionally more oriented towards the political sciences (Department of Journalism at the Faculty of Political Science in Sarajevo), philosophy and sociology (recently established Journalism Department at the Faculty of Philosophy in Tuzla), or they are a combination of both (recently established journalism departments at the University in Banja Luka and the University of Mostar). Similarly, all these departments usually offer a course of journalists’ deontology where just the ethical aspects of regulations are included. The course of Media Systems offered at Bosnian universities briefly examines a wide context of interrelations of media, politics, economy, and legislation mainly through theories of the system. In addition, several private schools for the education of journalists in B&H are more oriented towards journalistic skills, such as reporting, field journalism and PR. These mainly have workshop–based or skill training programs which do not include studies of media laws and regulations in
particular. Those schools generally provide courses in media ethics, production and development of journalistic skills.

All in all, the course of Media Laws and Regulations still does not exist within the B&H concept of media and journalism studies, and issues focused exclusively on media regulations do not have equal treatment compared to other established disciplines of study. Only the Department of Journalism at the Mostar University offers the course “Comparative Overview of Laws on Public Communications.” So far, there is no single book or complete case study\(^1\) on the topic of media regulations in B&H. Among the methods of data collection widely used in research, this study utilizes a combination of methods that rely heavily on written documents and interviews. Indeed, the author of this study has found numerous documents and contacts that can be used as relevant sources, but studies on the B&H media environment briefly mention or only examine specific cases of the Regulatory Code violations.

In order to understand the specific way media regulations developed in B&H, one must consider the heritage of the strict government–led control in B&H and understand the main social, cultural and political characteristics of B&H and the environment. Robin Alison Remington, professor emeritus at the University of Missouri–Columbia and an expert in the history of the Balkan region said: “A tree is the product of its seed. Today is rooted in yesterday. In the Balkans, that yesterday is at least as important as today; for some it is more real than tomorrow” (as cited in Friedman, p. 1, 2004). Although this is not primarily a social, political or cultural study, relevant background information in those areas is important to the main focus of this study.

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\(^1\) Except case studies made exclusively for the process of establishing the IMC and CRA and used internally for the purposes of agency. Some of those studies are offered as public documents.
Chapter One has two sections. Section 1 provides an overview of media regulation in the former Socialist Federation of Yugoslavia, when a media market did not exist and the only power to regulate the media environment was the League of Communists of Yugoslavia (LCY). Governed by the Communist Party under their ideological interpretation of Marxism during the Cold War, the Yugoslavian version of socialism was called “socialism with a human face.” This section provides an insight into the evolution of media in B&H and its environment, from the end of the Second World War to the late 1980’s, from the time of the Soviet–like “agitprop model” to the decentralization of media and political structures in the former Yugoslav federation which gradually lead into an expansion of ethno–nationalism.

The second section of Chapter One examines the complex role of media in the expansion of ethno–centrism and xenophobia in the late 1980s, which lead B&H into a bloodbath. This section also explains why Serbian and Croatian media stoked tragic events in B&H and provides an insight into the beginning of the process which lead the media system, and B&H, into disintegration and chaos.

Chapter Two scrutinizes the main characteristics of the B&H media environment after the 1992–1995 war was over. After the successful peace conference in Dayton, Ohio, the war was stopped, but the country faced a cruel reality of ethnic division and a destroyed economy. Almost half of the population was moved from their property and displaced internally or abroad. This situation had negative effects on the media system: three ethnocentric political movements created three different legal and judicial systems which could be characterized as chaotic; media was mushrooming but politically biased; and hate language was in use and news reports were extremely biased. The first section of
Chapter Two examines the major political challenges in B&H after the Dayton Peace Accord (DPA) was signed. The second section focuses on the position of media in B&H after the DPA and the tendency of ethnocentric political parties to continue with the misuse of media in a “verbal war.” This section also discusses the deterioration of journalistic standards and several examples of hate language from the early post–Dayton days of B&H.

Chapter Three addresses the establishment of the first independent media regulatory agency in B&H in four sections. The first section defines the role of the international community in “media intervention” in B&H. The international community in B&H is embodied in the Office of the High Representative, as the final interpreter of the civilian aspect of the DPA. One of their priorities was to regulate the media environment in B&H and to contribute to democratization, a fair election process, the return of refugees and private property, and to encourage development of an open and free market in B&H. Another priority of the international community was to eliminate the hate language and to form a consensus among the local professionals about the National Press Code. Section one also presents the early attempts of the international community to provide alternative news sources in B&H by investing tremendous amounts of money in the establishment of new media outlets. The establishment of television station OBN and radio station FERN was probably the most expensive non–commercial international media investment in any postwar country. Section two of Chapter Three addresses the establishment of the Independent Media Commission (IMC) in 1998 and the role of the international community in framing the media regulatory policy in B&H. The international community simultaneously worked on the establishment of the first
politically independent media regulatory agency and on the foundation of the public broadcast service in B&H. This section provides an analysis of the IMC’s efforts to find out about the postwar media landscape in B&H, to establish and apply the Codes of Practices and to start regulating the extremely complex media situation in B&H. The IMC successfully performed two phases of licensing – in Phase One short term licenses issued for 180 days were just the instrument to scan the actual situation and to prepare broadcasters for the next, more strict licensing – Phase Two – where economic and technological criteria were considered as well. Section three of Chapter Three analyzes the establishment of the Communication Regulatory Agency in Bosnia, which inherited all of the IMC’s authorities and obtained the segment of telecommunications as well. Bosnia currently represents a unique political conglomerate of local and predominantly ethnocentric political parties, significant involvement of the international community, and regional influences from Serbia and Croatia in particular. This section also examines reflections of those influences on the media environment in B&H and all obstacles that the CRA was facing in its early days. The fourth section discusses the theoretical framework for the establishment of the CRA and the reconciliation of whole media system in B&H. It also analyzes the main characteristics of the B&H public and describes the development of the CRA within the context of the poor democratic heritage at both the institutional and the public level in comparison with other European countries. From its establishment in 1998 to the passage of the new Law on Communications (LC) in 2002, the IMC and later the CRA were organizationally and financially dependant on foreign financial support.
Chapter Four addresses the responsibilities and jurisdictions of the CRA. This chapter has three sections: structure and divisions of the CRA, funding of the CRA, and the jurisdictions of the CRA. The role of the CRA was defined by the LC of B&H, which regulates electronic communications on the national level. The purpose of this chapter is to provide a better understanding of the current organizational structure, divisions and departments of the CRA, to analyze the budget of the CRA after the international financial support stopped, and to explain the jurisdictions and responsibilities of the CRA as announced in the LC. Chapter Five focuses on the contributions of the CRA to liberalization of the electronic media market and provides a short analysis of the media market in B&H and a brief overview of its financial potential. It also brings up important issues such as corruption, unsuccessful privatization, underdeveloped market and the political pressure on media that helps explain the vulnerability of transition countries.

Chapter Six represents the most complex part of this study. This chapter examines the content regulations and the sanctions for broadcasters through analyses of Law on Communication of B&H and the Broadcasting Code of Practice with the primary focus on the role of the CRA in the elimination of the hate language. Furthermore, this chapter briefly analyzes the rules for the broadcast license fees, presents the merit–based competitive process for the awarding of long–term licenses, and introduces the general terms and condition of licenses. Rules on media concentration and cross ownership are presented in this chapter, followed by the graphic presentation of geographic areas of broadcasting service. One of the most important achievements of the international authorities in B&H was the establishment of the national public broadcast service. This chapter also addresses the public service regulations and the specific structure of the
public broadcast service in B&H. Another important achievement of the CRA in advancing overall broadcast standards in B&H is represented by the success in protection of copyrights and intellectual property. Although B&H is a country where the international copyright standards are drastically violated in all other segments, the CRA put order in the broadcast market and applied strict rules in copyright for electronic media. A final section briefly presents breaches of rules and regulations and the role of the CRA in their decrease. In addition, this section discusses two recent examples of drastic violations of the Codes of Practice regarding hate language and the protection of public interest. Finally, the broadcasters’ feedback on the work of the CRA was examined, using the CRA’s research conducted in December 2003.

Chapter Seven addresses the role of the CRA and regulation of the media environment in the context of European integration. A constant threat to B&H’s viability as a multiethnic, democratic and secular country is coming from ethnocentric parties and their concepts which lead the country into isolation and further division. On the other hand, the movement of B&H toward the European standards in political, economic, legal, technological and other aspects of life gives this country hope and ensures its viability. This chapter discusses the main legal framework in the segment of electronic media in the European Union (EU), obstacles facing the B&H media market on the way to the EU, and the contribution of the CRA in bringing the B&H media market closer to the EU standards.
CHAPTER 1
Overview of Media Regulations in Bosnia and Herzegovina before 1995

This chapter will provide an overview of media in B&H socialist environment from the time of the Socialistic Federative Republic of Yugoslavia (SFRY) until the end of the tragic war against Bosnia and Herzegovina in 1995. Since this is not a historical or political study, this chapter will include just the most important manifestations of politics and the most significant political elements involved in regulating or influencing the media environment. The author divides discussion into several parts: the first part is an analysis of the media environment in the former SFRY, which describes three different stages in regulating media environment. During the time of socialist Yugoslavia, the former regime had drastic penalties for all forms of public expression of ethno–nationalism. The often repeated phrase “Brotherhood and Unity” was the most important inheritance of the socialist revolution and the anti–fascist National Liberation Movement during World War II.

Since the bloody outcome in the former Yugoslavia was caused by expansion of ethno–national politics, and media was massively misused as a mouthpiece in spreading propaganda, ethnic hatred and fear, this study will concentrate on providing relevant and documented examples in order to support that statement. After the fall of ideological

2 According to Mahmutcehajic, instead of interpreting this war as a “war in Bosnia and Herzegovina” the full comprehension of events can be provided only through the interpretation of this war as “the war against Bosnia and Herzegovina”, because it resulted “from a long, well prepared and rationally based attitudes towards that state” (Mahmutcehajic, 1999, p. 219).

3 According to the BBC’s historian, Tim Judah, this was the most famous slogan and dream on ideal linkage of all people in SFRY (Judah, 2003).
socialism, media misuse for political purposes in B&H caused chaos and the collapse of ethical norms and standards of the media profession, which will be discussed in the second part of this chapter.

From November 1943 until its international recognition in April 1992, Bosnia and Herzegovina was a federal unit of the SFRY. The League of Communists of Yugoslavia (LCY) was the one and only political party, which had total control over media in regards to regulation, ownership, and content until the first democratic elections in B&H in November 1990.

This chapter will introduce the main characteristics of heavy political involvement in media regulations in the former SFRY and B&H as its federal unit. Freedom of the press was formally guaranteed, but in fact the only power in society was in the hands of the LCY and the groups which were loyal to the LCY. Journalists were considered as “socio–political workers” and were loyal to the ideas of the LCY. However, it is important to differentiate three general stages of Yugoslavian socialism and to explain the role of the LCY in the domain of media regulation in each of those stages.

Furthermore, the second part of this chapter will include analysis of the political attempts of ethno–national movements to divide the Bosnian media environment based on ethno–national criteria. The appearance of Serbian, and afterwards Croatian and Bosniak, ethnocentric political tendencies in the domain of media were fatal and destructive to every aspect of the media environment. Generally, this chapter – as the entire study – will focus on broadcast media and provide relevant background information closely related to the topic of this study.

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4 In 1993 national definition Muslim or Bosnian Muslim was changed into Bosniak
1.1. Media Regulations in the Socialist Federative Republic of Yugoslavia

The Socialist Federal Republic of Yugoslavia (SFRY) was established as a federal union of six nominally equal republics: Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia. Two Serbian provinces, Vojvodina and Kosovo, had autonomous status within the SFRY. According to local scholars and authors, Yugoslavia went through three different stages in “searching for its brand of ‘socialism with a different face,’5 and in each of those stages, the Yugoslav media shared in the turbulence of the times” (footnote added) (Kurspahic, 2002, p. 6). During the first stage, media in former Yugoslavia were strictly controlled in the manner of the Soviet agitprop model. This was the most rigid, administrative model and it lasted from 1945 until 1950 (See Appendix A).

Not until 1956 did publishing enterprises, radio stations and film studios have rights to organize and control their own affairs, due to the Newspaper Publishing Act (Robinson, 1977, p. 28). However, hard ideological pressure, centralism and party supervision in media environment remained during the long transition towards “Titoism,” and produced self–censorship. Croatian journalist Slavenka Drakulic described self–censorship in former Yugoslavia as “the most perfect system among the one party states, set up to internalize guilt, blame, failure or fear, to teach how yourself should censor

5 “Over the next 40 years Yugoslavia changed beyond recognition. It developed its own brand of socialism, and a society far more open than that of its communist neighbors. For them, and for many communists around the world, Yugoslavia seemed to be a paradise on earth. At home the federation appeared to have solved the bitter national questions of the past, living standards were high and, unlike in other communist countries, citizens were free to travel to the west, either to work or to take holidays” (Judah, 2003).
thoughts and deeds and, at the same time, to make you feel you had more freedom than anyone in Eastern Europe” (as cited in Thompson, 1994, p. 12).

The first serious attempt to debate Tito’s concept of socialism in the media was made by one of the Tito’s closest associates, Milovan Djilas. In the Belgrade daily *Borba*, several articles were published in 1954 in order to support freedom of expression and Djilas himself “criticized the Party leadership for the slow progress toward political and economical liberalization and even suggested the creation of another party to provide open debate and exchange of ideas” (Kurspahic, 2002, p. 9). Former Minister of Agitprop and Information, Milovan Djilas was marked as an internal enemy of the state, and served a nine–year sentence for undermining the ideas of socialism (Kurspahic, 2002, p. 10) (see Appendix B).

Important changes within the media environment occurred after the Law of the Press and other Media of Information was passed in 1960. For the first time censorship in the form of previous notification was ruled out and the public prosecutor had to wait until the controversial material was published or premiered. The practice of open court, and accessibility to information sources were introduced for the first time in the SFRY. Importation of foreign press, contrary to the practice of most socialist countries was permitted without limitation. “The New York Times, Herald Tribune, Time, Newsweek, and other selected professional magazines were readily available in the bookstores of major cities, the only qualification being that the importer must have his name listed on the foreign trade register” (Robinson, 1977, p. 42).

According to Robinson (1977), the Constitution from 1963 laid the foundation for liberalizing the access to the news sources, and nominally changed the role of the
Yugoslav journalist from recorder of events to interpreter and critic. Furthermore, the Constitution guaranteed equality before the law, right to vote, privacy of domicile, inheritance, and religious freedom. Between 1963 and 1970, media in SFRY were decentralized, regionally organized and autonomous; revenues were based on subscription and license fees up to 80% and 20% on advertising. For the first time in the Socialist Yugoslavia, management boards and managers in media were not appointed by the LCY, but elected among the members of the organization. All media organizations had “workers councils.” After the experimental phase, TV programming was taking initiative and developing, and print media organizations had introduced evening editions and special journals.

Although formally changed and decentralized, with proclaimed freedom of the press, the media system in the SFRY remained within an ideological frame. The Code of Yugoslav Journalism was originally adopted by the Yugoslav Journalists’ Association in 1965 and amended in 1969. According to the Code, within the General principles and definition of the roles, the functions and the journalists’ status was still defined as:

a socio–political worker who, by carrying out his activity publicly, through the written or spoken word, cartoon, photograph, and film, takes part in the construction and development of the socialist society and strives for the fulfillment of the rights of the working people to self–government… he is thus contributing to the development of socialist consciousness and to the forming of the socialist public opinion (Robinson, 1977, p. 232) (see Appendix C).

Nevertheless, during the 1980s, media in the former Yugoslavia became “increasingly informative and regionally differentiated. Analysts of Yugoslav affairs
must read republican media – not just the Belgrade press – accordingly” (Thompson, 1999, p.8). According to Robinson, political control over the media was not as oppressive as in Communist states of the Warsaw Pact. She also notices that audience in the SFRY had “greater content variety than anywhere else in Eastern Europe” (Robinson, 1977, p. 213).  

1.2. The Media Environment and Political Influences in Socialist Federal Republic of Yugoslavia and Bosnia and Herzegovina before 1995

The development of Bosnian electronic media began on April 10, 1945 when Radio Sarajevo aired the first radio program. Until 1992 four radio programs were aired from Radio Sarajevo:

- Radio Sarajevo I\(^7\) was established in 1945,
- Radio Sarajevo 202\(^8\) established on July 1, 1971.
- Radio Sarajevo III\(^9\) was established on April 10, 1973, and
- Radio Sarajevo II\(^10\) was established October 1, 1975.

The first radio drama was aired in 1948, and the next year the first live concert was broadcast. The first radio news program was produced in 1952 and first educational


\(^7\) The main program content of the Radio Sarajevo I was news and serious political issues.

\(^8\) The main program content of the Radio Sarajevo 202 were city-information, events, culture, sport and entertainment.

\(^9\) The main program content of the Radio Sarajevo III was scientific and theoretical discussions, public issues. In general, the program gathered wide range of artists and scientists, and it was oriented towards the promotion of the highest artistic values.

\(^10\) The main purpose of establishing the Radio Sarajevo II was to provide the programming about family, health, popular science, youth program and to serve as a common network for all radio stations in B&H (Historija RTV B&H, no date).
program in 1954. In October 1961 Radio Sarajevo I had a full daily programming schedule from 5 AM until 12 AM. The same year TV Sarajevo debuted.

During the period of socialism (1945 – 1990), prime time news was broadcast at 7:30 PM and had the largest audience. At the beginning, Televizija Sarajevo (Sarajevo TV) (TVSA) produced a prime time news show for the JRT network exchange once in five days, but just after few months TVSA started to produce TV news at 7:30 on a daily basis. (Historija RTV B&H, no date). In 1975 the first stage of the modern RTV Center building was finished, antenna systems were upgraded as well as a transmitter network for distribution of the Radio Sarajevo II signal. That network covered 80% of the Bosnian territory and integrated 52 local radio stations. At the beginning of 1992, the network had capabilities of covering 87% of territory with AM signal; the FM transmitters were covering 53% of the territory (Historija RTV B&H, no date).

Other members of the JRT network were RTV centers in Ljubljana–Slovenia, Zagreb–Croatia, Beograd–Serbia, Titograd–Montenegro and Skopje–Macedonia. In addition, two autonomous regions of Vojvodina and Kosovo established their RTV centers later. Jugoslovenska Radio–Televizija (Yugoslav Radio–Television Network) (JRT) “was the body that co–ordinated the television schedules, including exchange of programmes” (Thompson, p. 16, 1999). The main official languages in SFRY were Serbo–Croatian language spoken in Croatia, Serbia, B&H and Montenegro, Macedonian language in Macedonia and Slovenian language. The JRT also provided program in the languages of the nationalities that lived in the former SFRY (Hungarian, Albanian, Romanian, and Bulgarian). “In accord with Tito’s method of national balancing, a quota system by nationality was observed in executive positions in the broadcasting service in
Bosnia as well as in Serbia and two autonomous provinces. In Sarajevo, the position of editor–in–chief of television was added to the ratio, so that a Serb, a Croat and a Muslim would hold the top three positions” (Thompson, p. 16, 1999). Competition for participation in programming was tightest among TV Sarajevo, TV Zagreb (TVZG), TV Belgrade (TVBG), TV Novi Sad (TVNS\textsuperscript{11}) and TV Titograd (TVTG), because they all produced programs in the Serbo–Croatian language (see Appendix D).

![Figure 1.1. Former Yugoslav federation](image)

\textsuperscript{11} RTV Novi Sad produced a significant part of programming in Hungarian, because of large Hungarian national minority live in northern Vojvodina, but the rest of program was in Serbo-Croatian.
Still, the main characteristic of the SFRY was ethnic, cultural and religious diversity but also uneven industrial and economic development among the federal republics and autonomies. The policy of Tito’s Government was generally based on “brotherhood and unity” paradigm, and hard pressure on nationalism of any form or shape, but political and media decentralization after the Constitutional changes in 1963 and 1974 have “increased the gulf between ‘have’ and ‘have–not’ republics” (Robinson, 1977, p. 185).

During the 1960s the Bosnian position in the SFRY had dramatically improved (see Appendix E). Due to different positive circumstances authors were not hesitant to express their authentic language, culture and topics. B&H had a large number of internationally recognized artists in literature, painting, sculpture, graphics, architecture, film, music and many excellent media professionals. A local authority in the cultural history of B&H, Ivan Lovrenovic writes:

In spite of various set backs and all the difficulties of a slow emergence from colonial and provincial backwardness, from sixties onwards the cultural life of Bosnia and Herzegovina began to flourish, especially at the institutional level and become comparable with that of other countries. It was manifested in radio, television (from the late sixties), the press, films, art exhibitions and rich range of publications including translations. From the seventies various forms of popular culture become part of the lives of great number of people. Various institutions, public meetings and projects, all well above average helped to raise a general standard (Lovrenovic, 2001, p. 187).
The most important event for international affirmation of B&H and the TVSA was the organization and coverage of the Winter Olympic Games in 1984. The Bosnian people were proud that the battle for organization of the XIV Winter Olympic Games was won in competition with the Japanese city of Sapporo and the Swedish city of Gothenburg. Chronologists of the Games recorded: “In 1984, the Winter Games took place in a socialist country for the first and only time. The people of Sarajevo gained high marks for their hospitality, and there was no indication of the tragic war that would engulf the city only a few years later” (Sarajevo 1984, 2004).

However, during the late 1980s first serious signs of ethno–national propaganda and media abuse appeared on Belgrade TV and in Serbian media. All relevant media scholars agree that one of the key roles in the arising of destructive ethno–nationalism in former Yugoslavia was played by media and journalists. The Serbian Academy of Sciences and Art (SANU) has drew up a famous document called The Memorandum in 1986, what was latter considered as a blueprint for expansion of Serbian territory over Croatia, Bosnia, Kosovo and Montenegro and revoking of the Kosovo’s and Vojvodina’s autonomous status. All Serbian media under control of Slobodan Milosevic became extremely aggressive in labeling other ethnic groups in former Yugoslavia. They started with acquisition of “Shiptars” for “counter-revolution”, “separatism” and gradually, from 1986 until early 1990s Radio Television Belgrade made up a wide set of “enemies

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12 According to James Gow, Professor of International Peace and Security at the King’s College London, and Co-Director of the International Peace and Security Programme, The Memorandum of the SANU had tremendous role in raise of Slobodan Milosevic. This document complained that the Serbian integrity was destroyed by the 1974 Constitution, and declared that “the Serbian people cannot peacefully wait’ in such situation, and affirmed that Serbia would have ‘define its national interest’” (Gow, p. 16-17, 2002).
13 See also: Gow, James (2003), The Serbian Project and its Advertisers, A Strategy of War Crimes, McGill-Queen’s University Press, UK
14 In Serbia, term “Shiptar” represents derogatory name for Kosovo Albanians
of Serbian people”, starting from Kosovo, and expanding propaganda activities to Slovenia, Croatia, B&H and Montenegro.

Undoubtedly, one of the most important events in expansion of destructive Serbian ethno–nationalism and xenophobia was the commemoration of the 600\textsuperscript{th} anniversary of the Battle of Kosovo and speech that Slobodan Milosevic gave to a rally of more than one million people. He warned Serbian people, but his message was aimed at all other Yugoslav nations and political elites as well. Milosevic said: “Six centuries later, now, we are being again engaged in battles and we are facing battles. They are not armed battles, although such things cannot be excluded yet” (Milosevic, 1989) (see Appendix F).

During the late 1980’s and early 1990’s Bosnian media environment was moderate, balanced, and still free of ethno–national propaganda. The most significant examples of the free media environment were TVSA, daily newspaper Oslobodjenje, and Omladinski program (Youth Program) of the Radio Sarajevo II. The TVSA was the host of most balanced TV news show of that time – YUTEL. A group of journalists who formed The Yugoslav News Television Network – YUTEL, was forced to leave Belgrade in 1990 under the strong pressure of Milosevic’s regime. They established an editorial office in Sarajevo and broadcast balanced news that included all sides in story, instead of biased and propagandistic approaches which dominated on TVBG and later on TVZG. Kurspahic sees in long standing pressure of the Tito’s political doctrine of preserving the “brotherhood and unity” as the most important heritage of anti–fascist movement in Yugoslavia, the preconditions for a moderate, and balanced media environment in Bosnia (Kurspahic, 2002). In B&H that doctrine over the decades had produced a moderate and
tolerant environment, demonstrated in early years of expansion of Serbian and Croatian nationalism.

The Radio Sarajevo II aired one of the most successful radio programs in the SFRY ever – *Omladinski program* (Youth Program), produced by young professionals with different ethnic background but the same professional, cultural and social standards. Editor–in–chief of that program was Boro Kontic, and other people who brought the light of the first open debate with the audience about the tough political and social issues were: Neven Andjelic, Senad Hadzifejzovic, Mladen Sancanin, Senad Pecanin and Aleksandar Hemon. What was once called “the world of perpetual darkness”\(^\text{15}\) in Zagreb and Belgrade, probably because of five centuries long Ottoman occupation, in the early years of Croatian and Serbian nationalisms’ expansion became the oasis and the last oasis for media professionals (see Appendix G).

Regardless of any moderate and balanced media, propaganda and political influence from Serbia and Croatia were extremely strong and did not leave the Bosnian media environment immune. War in Croatia started in August 1990 by the exchange of fire between Serbian rebels in the self–proclaimed *Serb Autonomous Province of Krajina* at one side, and the Croatian police at another. The main characteristic of this conflict was that Serbian rebels were armed and encouraged by the Serbian governmental actions, and strongly supported by the Serbian media propaganda machinery (Glenny, 1999). What appeared as a riot of a local ethnic group had much deeper roots and more complex outcome. Influence of both sides in the Croatian war, Serbian rebels supported by

\(^{15}\) The ‘World of perpetual darkness’, or ‘Dark Vilayet’ (Tamni vilajet) – term often used by Serbian and Croatian nationalist to describe Sarajevo and Bosnia and Herzegovina as a world of perpetual war, Ottoman and Islamic heritage; world behind the contemporary trends.
Milosevic’s regime and Croatian official politics, was an inevitable influence on Bosnian Serbs and Croats (see Map 1.2. Ethnic composition of Croatia according to the Census 1981 and 2001; Map 1.3 Ethnic composition of Bosnia and Herzegovina according to Census 1991, and Map 1.4 Ethnic composition of B&H after the DPA).

Figure 1.2. Ethnic composition of Croatia according to the Census 1981 and 2001

Since the professionals of TV Sarajevo gave their best efforts to inform the public about the events in Croatia, based on the norms of professionalism and objectivity, Serbian paramilitary units in Bosnia supported by the Yugoslav National Army and

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16 According to the last official consensus in Bosnia and Herzegovina from 1991 ethnic composition of that country was as follows: 43.7% Bosniaks, 31.3% Serbs, 17.3% Croats and 7.7% Yugoslav and “Other” nationalities (source: The Government of B&H).
inspired by the Serbian propaganda machinery decided to seize transmitters of TV Sarajevo. The first one was seized on August 1, 1991, eight months before the war against Bosnia began (Kurspahic, 2002, p. 97–99). Soon, after the first transmitter on the mountain Kozara was seized and redirected to broadcast programming with no opposing point of view, which was produced in Belgrade, the Serbian paramilitary took over five other powerful transmitters on mountains: Pljesevica, Doboj, Trovrh, Velez and Vlasic (Kurspahic, 2002, p. 98).

Figure 1.3. Ethnic composition of Bosnia and Herzegovina according to the Census 1991
(source: http://www.ohr.int/ohr-info/maps/)

1991
- Croats - more than 66%
- Croats - 50-65%
- Croats - up to 50 %
- Bosniacs - more than 66%
- Bosniacs - 50-65%
- Bosniacs - up to 50%
- Serbs - more than 66%
- Serbs - 50 - 65%
- Serbs - up to 50 %
Serbian leadership did not keep secret its intention of territorial expansion over Bosnia and Croatia, and the main resource in mobilizing Serbian rebels for the paramilitary activities in Croatia and Bosnia was in spreading propaganda, threats and lies over the media. During that time, a great portion of Bosnian territory, instead of getting balanced and objective information about events in Croatia, was literally bombarded with the heaviest speech of hate and propaganda against the neighbors.
Customary phrases at the TV Belgrade at that time were: “threatened Serb people”, “the reawakening of the Ustasha”, “Serbian national survival”, “the Croat–Muslim conspiracy”, and “the Islamic threat” (Kurspahic, 2002, p. 98).

Distribution of the Sarajevo daily newspaper Oslobodjenje was made impossible in many B&H regions controlled by Serbian paramilitary troops and drivers of Oslobodjenje had often reported illegal checkpoints where they were stopped and all papers seized without any explanation or documentation (Kurspahic, 2002, p. 98). The building of the Oslobodjenje was one of the first targets of Serbian heavy artillery in early 1992, but regardless of the heavy damage to their building and the lethal risks of a nearby frontline, the multiethnic editors and reporters of daily Oslobodjenje remained loyal to standards of profession during the war against B&H.

The main intention of the Serbian propaganda pattern in B&H was to gradually separate even neighbors and family members by spreading the fear of the “Islamic and Ustasha threat.” Actually the Bosnian population in general (especially the urban population) had firmly opposed the creation of separate, mono–ethnic political regions in Bosnia and Herzegovina. According to Tom Gjelten:\footnote{Diplomatic correspondent for National Public Radio who wrote the book about the media in Bosnia and Herzegovina – Gjelten, Tom (1995), Sarajevo Daily; A City and its Newspaper Under Siege}

identities had been weakening in Sarajevo year by year since World War II. In 1991 one of three new marriages in Sarajevo was between partners of different national backgrounds, the highest rate ever registered. According to the Bosnian government’s Institute for Statistics, 18.6 per cent of marriages recorded in the period 1981–1991 in Bosnia and Herzegovina were between partners of different nationalities. The proportion was 29.2 per cent in urban municipalities, versus 9.5
per cent in nonurban areas. Sarajevo reported the highest intermarriage rate, with 34.1 per cent in 1991, up from 30.1 per cent in 1981. (Gjelten, 1995, p. 9–10)

Despite the fact that every attempt to change the ethnic map of B&H would be an anti–civilization act, President Milosevic’s government maintained control of the Radio Televizija Srbije (Serbian Radio–TV) (RTS) with an iron grip. The leader of the tiny Serbian Reform Party, Ivan Djuric, explained in an interview Milosevic’s understanding of the power of media:

Milosevic has surely never read Marshall McLuhan but he has grasped better than anyone the function of the mass media and of television in particular: he well knows that there is nothing except national TV, and that on national TV there is nothing except the 7:30 evening news. It is there that the consensus of public opinion is formed” (Thompson, 1994, p. 86).

The referendum for the independence of B&H was held on March 1 and 2, 1992. The voters’ participation was unexpectedly high regardless of the threats and saber rattling. Over 64% of voters opted for independence, but the Serbian Democratic Party (SDS) proclaimed the “Serb Republic of Bosnia and Herzegovina” even before the international recognition of B&H, and formed a TV station in the mountainous village Pale, a few miles away from Sarajevo. According to all professional standards, that TV station was nothing but a parade of hate speech and an attempt to justify and even promote “ethnic cleansing”\(^{18}\), killing, concentration camps\(^ {19}\), rape and other evil deeds as

\(^{18}\) Euphemism for the term “genocide”, introduced in Bosnia by the international media and international diplomacy.

\(^{19}\) For more information about concentration camps in B&H during the war 1992-1995 see the Pulitzer Prize awarded collection of the reports on Bosnia and Herzegovina by Gutman, Roy (1993), *Witness to Genocide*, Element, Shaftesbury.
the acts of liberation. A few years after the war was over, the columnist of daily
*Oslobodjenje*, Gojko Beric\(^{20}\) said about the TV Pale news, and its editor Risto Djogo:

People in Sarajevo were waiting for Djogo’s evening Journal, like in some masochistic ritual, expecting to see how low it could get. In the beginning, there was still some disbelief that the war – with the killing of people in their homes, in the streets and parks, with Djogo and all the evil he represented – would last long. But later it became almost a need to see what kind of people were behind all that terror. I think that Djogo’s primitive hatred produced an unintended reaction among the Sarajevans – defiance and superiority against the evil – and I believe that, in the end, it contributed to the survival of the city. (Kurspahic, 2002, p. 101–102).

At the beginning of war just two of eleven powerful transmitters of the B&H state TV were under control of the B&H Army, while the remaining nine were transmitting radio and TV signals of other countries (Serbia and Croatia) or disseminating pure propaganda. However, the media in Sarajevo remained constant targets during the 42 month–long siege of the Bosnian capital. According to Senad Hadzifejzovic, the news editor at the B&H TV, 55 employees of TVSA lost their lives during the siege of Sarajevo and many others were badly wounded (Kurspahic, 2002, p. 113).

In June 1992 Bosnian Croat leader and president of the HDZ, Mate Boban, “declared the ‘Croat Community of Herzeg–Bosnia’, a kind of Croat Autonomous Region in which the Croatian currency was introduced and the Croatian flag was flown” (Malcolm, p. 241, 1994). The Croatian Community of Herzeg–Bosnia also established

\(^{20}\) Gojko Beric – columnist of the daily *Oslobodjenje*; Bosnian Serb who preferred the norms of profession and humanity to his ethno-national affiliation. Beric is one of the finest journalists and columnists in Bosnia.
their own media system, and broadcast Croatian TV over the transmitters that they controlled. Soon after rejection of the Owen–Stoltenberg plan, the Army of B&H was attacked by the Croatian Defense Council (HVO) and the same aggressive methods as those used by the Serbian forces were used:

the same kind of rhetoric in their propaganda in the media and in political speeches was used. They denied the value of the Bosnian tradition of a common life, ridiculed the idea of Bosnia as a state and community, derided Bosniak Muslims and their culture” (Lovrenovic, 2001, p. 203).

Both of the armies, the Army of the Serb Republic and the HVO formed concentration camps and systematically worked on destruction of Bosnian state and genocide of Bosniaks.

However, the media campaign was launched first within Bosniaks’ ultranationalist print media *Ljiljan, Zmaj od Bosne* and *Bosnjak*, and continued with the ruling Bosniak’s ethnonational political party (SDA) tendency to influence and establish electronic media. RTV B&H had certain oscillations in following of the journalism principles until the SDA achieved the full control over the state RTV system.

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21 For detailed information, check the historic studies by Misha Glenny, Norman Cigar and Noel Malcolm – full citations provided previously
CHAPTER 2
Media Situation and Political Environment in Bosnia and Herzegovina after the Dayton Peace Accord 1995

The purpose of this study is to present the development of the independent media regulatory agency in B&H. This chapter will include a brief presentation on the media situation in B&H after December 1995, when the war against B&H was officially over. This information is important to better understand the complexity of the situation in the segment of media and telecommunications, and to illustrate how difficult it would be to untie the Gordian knot. In addition, a brief overview of legal changes that the Dayton Peace Accord (DPA) brought will be presented. The main characteristics of that time affecting media were:

- devastated economy and unwillingness of the politicians to work for the country’s reintegration,
- chaotic legal and judicial systems,
- total chaos in regards to spectrum allocation,
- mushrooming of media outlets (mainly local electronic media with the low power transmitters\(^\text{22}\)),
- ethno–national divisions of content and media personnel,
- politically biased media did not provide equal access to all political parties and independent candidates registered for elections,
- unfair and unbalanced news reports,

\(^{22}\text{Absurd situation in which B&H was statistically one of the leading European countries in number of electronic media outlets.}\)
- widened use of language of hate and chauvinism,

This chapter will examine the main characteristics of the early post–DPA period and include relevant examples, statistics, and indexes based on the early post–Dayton research. It will also include relevant statistics and data on population, and present media–related statistics. A general comparison with other European countries, economic indexes, and other relevant contextual indexes will be presented, which should provide a better understanding of the complex situation.

2.1. Major Political Challenges in Bosnia and Herzegovina after the Dayton Peace Agreement

After the Dayton Peace Agreement was signed B&H, faced a new political reality. The country was divided in two political entities; Federation of Bosnia and Herzegovina (51% of the territory) and Republika Srpska (49%).

Almost five years after the DPA was signed, another political entity was declared, a district under the jurisdiction of Bosnia and Herzegovina and not a part of any entity, the Brcko District. Although the international community and the main architect of the Dayton Peace Accord, the former American ambassador to the UN, Richard Holbrook, intended to make a transitional solution and stop the bloody war, he emphasized during his recent visit to the Balkan region that in political sense the situation remained almost unchanged. Both political entities (Federation of Bosnia and Herzegovina [FB&H] and

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23 Brcko is a town in the Northeast region of Bosnia. The whole municipality of Brcko was declared the Brcko District. During the war against Bosnia, Brcko was the most important strategic point and the link between the western territories in Bosnia and Croatia under control of ‘Serb forces’. The importance of the “Brcko corridor” for the accomplishment of the “Greater Serbia” can be illustrated with the fact that although military flights were prohibited in B&H according to the Resolution 781 of the United Nations, from October 9, 1992, “Serbian aircraft continued to violate the air exclusion zone, carrying out aerial attacks on towns such as Brcko and Gradacac” (Gow, p. 132, 1997). After the decision of the OHR from March 8, 2000 the Brcko District was declared a district which does not belong to the political entities of FB&H and RS. This municipality is defined as a District of Bosnia and Herzegovina.
Republika Srpska (RS)) still have wide political jurisdictions, governments, parliaments, police and military.

![Map of Bosnia and Herzegovina and its entities Republika Srpska and Federation of Bosnia and Herzegovina](image)

**Figure 2.1. Bosnia and Herzegovina and its entities Republika Srpska and Federation of Bosnia and Herzegovina**

The existence of two armies in particular represents the main obstacle for joining of B&H to the NATO Stability Pact, and the existence of two divided Ministries of Internal Affairs and two polices is one of the main obstacles for beginning negotiations for the EU membership. Another absurdity of the B&H political situation was actually
rooted in constitutions of both entities, RS and the FB&H, because they were created before the DPA. According to those constitutions, the RS was a country of Serbs, and FB&H of Bosniaks and Croats although B&H was an ethnically mixed country of three nations and other nationalities, with no exclusive ethno-national group. Both of those constitutions were incompatible with Annex 4 of the Dayton Peace Accord, the B&H Constitution, and the European Convention of Human Rights. Although incompatible and in conflict with the B&H Constitution, both entities’ constitutions remained unchanged and extremely discriminatory until 2001 when they were changed by constitutional amendments initiated by the High Representative Wolfgang Petrich.

Another problem for a relatively small transitional country was the complex, expensive and ineffective administration that was introduced after the DPA. With 14 constitutions, and the same number of governments and parliaments at different levels (the Federation of Bosnia and Herzegovina has 10 Cantons with a complex administrative structure), with 180 ministers and ministries and administration following that robust state apparatus, Bosnia and Herzegovina represents probably the most complicated political and administrative structure in the world ever. Approximately 60% of the national GDP goes to public expenditures, and half of the expenditures go for public administration salaries. The average European Union country has one public officer for every 2000 employees in other branches, and Bosnia has four times more – one for every 500 employees (Dizdarevic, 2004, p. 39).

Destructive trends of ethno-national politics, promotion of religious intolerance, regionalization on ethnic level and isolationism, which have negative effects on the

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24 According to the Census of 1991, Bosnia and Herzegovina had 4.4 million inhabitants: 43.7% Bosniaks, 31% Serbs, 17.3% Croats and 7.6% Yugoslavs, Roma, Jews and other nationalities.
overall economy, contributed to the unsuccessful transition. Unfortunately these trends have overpowered the positive effects of the market. They disrupted money flow, integration into a single country and further investments. Bosnia still has the highest rate of unemployment in Europe; officially more than 40%. Even in 1991, during the galloping inflation and economic crisis in the former Yugoslavia, GDP per capita in Bosnia was $3200, while in 2002 GDP totaled $1470, or just 45% of the prewar level. (Dizdarevic, 2004, p. 39) (see Appendix H).

The lack of accurate statistical data and absence of statistical institutions on the national level practically disable any serious planning and projecting of future economic projects or policy. Approximately 20% of the population still lives under the poverty level, and just 1% of the GDP represents social care expenses. Furthermore, Dizdarevic notes that the education system at all levels was ruined during the last decade, because it is very vulnerable and an easy target with political, ideological and chauvinistic claims. Most of those claims were first implemented through three separated concepts of education, based on ethno-national affiliation. Such extreme concepts produce a variety of absurd and discriminatory situations in ethnically mixed environments, where, for example, 2 separate schools exist under one roof; or where returning of refugees and displaced population is discouraged, because their children will have to study “other culture”, “other religion” and “their tradition.” The names of schools and new symbols used very often are not just discriminatory but insulting for those who belong to other ethnic groups or have other religious affiliations.

An international initiative to eliminate all insulting materials from school textbooks was lead by OSCE during the last few years, but that was just the first step in reconciliation.
Experts in the field of education assert that teachers and instructors very often use insulting terminology, and misinterpret the history, culture, tradition and religion of other ethnic groups. Those misinterpretations often aim to present the variety of cultural influences in Bosnia as a problem, and other cultures, religions and traditions as “retrograde remains of a hostile environment.” Such education cannot produce individuals open to acceptance of differences, political pluralism, and integrative processes.

However, the main problem with the solution imposed by the DPA is the grotesque administrative structure that was established and the difficulty changing it. The structure was based on the Constitutional solution, where “three constitutive nations” compose Bosnia and Herzegovina. This concept represents the primary obstacle for implementation of the European Convention of Human Rights (ECHR), because the ECHR’s focus is on the individual citizen, not as members of a specific nation or ethno-national group. Due to such policy, the Bosnian political situation is absurd, especially for those who do not belong to one of those three ethnic groups defined by the constitution. Political discrimination still exists in the domain of free elections, as the right to vote and be represented or to be chosen representative are limited.

Therefore, Constitutional changes that will recognize and affirm individuals and citizens’ rights and their consistent implementation are necessary for the transition of Bosnian society, but before this step would be even imaginable, equality of all ethno-national groups in Bosnia and Herzegovina needs to be achieved. This means changes in all branches of life, economy, employment policy, legal institutions, administration, electoral policy and consequently the whole concept upon which B&H is currently based.
2.2. Position of the Media after the Dayton Peace Agreement

After more than three and half years, the war was ended by the Dayton Peace Agreement and Bosnia and Herzegovina had statehood status formally re–conferred. However, “the post–Dayton media landscape in the Balkans, could not have been more unfavorable for the development of free and pluralistic media” (Kurspahic, 2002, p. 141). The country was saved from further destruction, but the integrity of B&H was ruined by two ideological and basically expansionistic projects of Greater Serbia and later, Greater Croatia. In addition to two ethno–nationalisms that were intended to deny and destroy Bosnian integrity, the appearance of the third – Bosniak nationalism – was no less dangerous. All three nationalisms carried similar characteristics; although formally and ideologically different, they were initiating distance from “others.” Homogenization within ethnic groups and development of three quasi–state systems had disastrous results on the overall media situation in B&H. “Their insistence on their differences from the Communist regime is largely rhetorical and superficial. In these projects, the ideology–based state is replaced by ideas and actions leading towards ethnic homogeneity, which should be logically complemented by ‘national sovereignty’” (Mahmutcehajic, 2003, p. 118).

Consequently, three completely isolated media systems, based mainly on ethno–national exclusivity were developed within Bosnia. Everything that characterizes a state in a European political environment was divided by three in B&H after the end of the war; even license plates, IDs and other personal documents were different. Ethno–national tendencies went far, reaching even into purification of languages and extermination of “their” words from “our” dictionaries, changing the name of “their” street and renaming
it by “our hero” or “our name.” Even the road signs were changed\textsuperscript{25}. It is important to mention that all ethnic groups in B&H used the same official Serbo–Croatian language, with certain linguistic nuances and two alphabets which were equal until 1992.

Furthermore, three quasi–states\textsuperscript{26} within B&H existed with their own media regulatory bodies and each of them controlled their own media outlets. According to the official Annual Report of the Independent Media Commission\textsuperscript{27} (IMC), in preparation for Phase One of licensing broadcasters in 1998 the IMC “carried out comprehensive evaluation of the broadcasting landscape across the whole country. Prior to Phase One the broadcasting sector had been characterized as chaotic. Some 298 broadcasters were granted provisional licenses in return for compliance with license conditions and Codes of Practice” (Communications Regulatory Agency Annual Report for the Year of 2002, 2003).

Reports from some early firsthand observers suggested that certainly into 1996 the “media community, or a large portion of it, seemed bent on not reinventing itself but returning to the very practices that had spawned and provided impetus for the war.” (Markotich, 2000, p. 18). Politics continued to control media, and the assumption of the international community in Bosnia was that if such tendencies of heavy involvement of politics persist in the media environment, a democratic environment capable to provide alternatives would not be feasible.

\textsuperscript{25} In Republika Srpska the Cyrillic alphabet was exclusively used, which brought confusion for internationals who were not able to read that alphabet.

\textsuperscript{26} Even though the DPA defined B&H as a country of two entities, in fact after December 1995 Bosnia was \textit{de facto} divided into three parts: Parts that were under control of the Army of RS, the HVO and the Army of B&H.

\textsuperscript{27} The first politically independent media regulatory agency in B&H established in 1998 under the supervision of the OHR.
The language of hate, accusations and media manipulations continued and remained unsanctioned, most often as an extension of rigid politics. The following citation is from the early report on media environment, when a regulatory body did not exist:

Two months ago I saw a documentary on the Srpska–TV about Srebrenica\textsuperscript{28}. With shocking pictures they blamed the moslims [sic] for the many dead Serbian people there during the so–called liberation of Srebrenica; no single word about the destiny of the Muslim–population! And this week we heard about the journalistic adoration of the democratic hero's Franjo Tudjman\textsuperscript{29} and Slobodan Milosevic who were finally recognized by the whole world as the peace–makers and the leaders of two new democratic European nations. No word about the attacks by Milosevic at the same time against the independent media in Kosovo and by Tudjman against the only independent daily in Croatia. (footnotes added)

(Markotich, 2000, p. 18)

In addition, misuse of media in promotion of a certain political party or idea tended to continue. The hostile media environment could not provide a fair political climate or reconciliation and integration of Bosnian society. The DPA did not consider

\textsuperscript{28} Srebrenica became a symbol for Bosnian tragedy. After July 11 1995, Serbian troupes entered the town, expelled more than 40,000 and in the following days systematically killed approximately 8,000 Bosniaks from this small town in Northeast Bosnia. On 2 August 2001, Serb general Radislav Krstic became the first person convicted of genocide by the International Criminal Tribunal for the former Yugoslavia and this case became the first convicted case of a genocidal act after World War II. (Slow Justice: Guilty of Genocide - Radislav Krstic, no date). See PBS Documentary “Srebrenica: Cry from the Grave”, http://www.pbs.org/wnet/cryfromthegrave/

\textsuperscript{29} Franjo Tudjman – the first president of independent Croatia, an “autocratic leader, and the president of ultranationalist Croatian Democratic Union (HDZ)… Tudjman's role in neighbouring Bosnia was ambiguous. The fragile partnership between Muslims and Croats had collapsed into open conflict in Mostar and a scribbled map discovered at a banquet in London clearly showed that Mr. Tudjman did not envisage a Bosnian state” (Franjo Tudjman: Father of Croatia, 1999).
the media issues in Bosnia in particular, except in the case of providing fair conditions for political elections.

According to information of the PEN American Center, at the end of the war Bosnia “witnessed a rapid and sudden proliferation of broadcasters and dailies, far exceeding in sheer numbers what had existed prior to 6 April 1992, indicating that a process of decentralization was the order of the day. By June 1996 there was at least a doubling of the pre–war statistics, with 145 print–media titles, 91 radio stations and 24 television stations” (as cited in Markotich, 2000, p. 19). The author concludes that this stunning emergence of quantity did not represent improvement in quality. Standards of production and reporting had dramatically deteriorated. All newly established governments and ethnocentric political parties used this favorable new media environment. They also used the lack of political public opinion and media professional standards for their own benefit. The news editor of the TVB&H, Senad Hadzifejzovic, confirms this statement, describing the tendency of leading Bosniaks’ ethno–national political party SDA to adapt media to their needs: “They played on our key weakness: individuals, immature journalists, who just love to be close to political parties. They interfered through these individuals who voluntarily became moles in their own institution” (Kurspahic, 2002, p. 113). Hadzifejzovic also pointed out that from the time he became the news editor in 1990 until 2001 ninety people edited the evening news, which is quite unusual and inconsistent with professional standards.

The lack of educated journalists brought some young outsiders, most with only a high school education, into the profession: “They [reporters] were not professional journalists but his master’s voice and let their instruments (radio, tv, newspapers) be used
for propaganda and creation of an atmosphere of hate and intolerance. They divided
the world in the good (we) and the bad guys (they)” (Markotich, 2000, p. 20). A report by
the Executive Director of the Committee to Protect Journalists (CPJ), William Orme, to
the Chairman in the Office of OSCE, Flavio Cotti, in September 1996, included several
important points on freedom of journalists to travel and report, political pressure, and
intentional interference with signals:

As CPJ and other international groups have confirmed, despite IFOR (Peace
Implementation Force) press passes theoretically allowing freedom of movement,
the few local reporters brave enough to drive from one ethnic enclave to another
are intercepted on the roads and sometimes beaten, their ethnic identity easily
determined from the residence codes on their license plates. Correspondents' 
submissions are rejected for “harming the national interest.” Journalists who
cover the opposition are subjected to the same violence directed against rival
political parties by those in power. Independent radio stations are drowned out by
more powerful state–run programs and television screens go blank during critical
debates. Air time reserved for opposition parties is either withheld in practice or
used by the ruling parties to denounce their competitors. (as cited in Markotich,
2000, p. 20)

As a consequence of such a situation, the Bosnian media environment, although
having one of the highest per capita numbers of media outlets in Europe, was
underdeveloped from a professional and legal standpoint. The need for an independent
regulatory body to provide a legal framework for broadcasters’ conduct was crucial. The
role of the international authorities in the establishment of a politically independent
regulatory body was inevitable because the local environment did not suffer from just unregulated and misused media outlets. According to the report of the International Crisis Group (ICG) from 1996,

the political environment in B&H today is not able to protect the judiciary from organized crime. The dual functions – politician and gangster – which seemed so inevitable and common throughout the war, have not been tackled adequately in the post–war years. (Markotich, 2000, p. 5)
CHAPTER 3
The Establishment of the Communication Regulatory Agency in Bosnia and Herzegovina from 1998 – 2001

This chapter will address three specific phases in the establishment of an independent telecommunication regulatory body in B&H after the DPA. Because the international authorities became an integral part of the local political structure through the Office of the High Representative in B&H (OHR) as a final interpreter of the civil aspects of the DPA, it is necessary to analyze their role and describe their active involvement in the B&H media environment (see Appendix I). The first section of this chapter will provide a rationale for such a heavy involvement of international diplomacy in solving the B&H media puzzle. The second section will discuss the establishment of the first independent media regulatory institution – the Independent Media Commission (IMC) under strict international supervision. The last section will discuss the final stage in the establishment of the Communication Regulatory Agency (CRA) in 2001, by merging competencies of the IMC and Telecommunications Regulatory Agency which existed as a governmental agency, and provide the theoretical frame used in foundation of B&H media regulatory body.

3.1. Significance of International Intervention in the Domain of Media in Bosnia and Herzegovina

Early intervention by the international community in the B&H media environment went beyond the organization of a regulatory framework. The consensus of historians and
media analysts is that the media had an important manipulative role in preparation for war, and continued their fateful actions in the post war period. Although independent media existed after the end of the war, they were mainly locally based and “out shouted” by powerful media under control of ethno–national political parties and governments established under their patronage. A majority of local media analysts speculate that international authorities were not resolute and energetic enough in preventing ethno–national parties from misusing existing state media immediately after the war was over in December 1995. More critical analysts assume that international authorities made a mistake by leaving ethno–national warlords in power after the Peace Conference. However, back in early post–DPA years the international community invested a tremendous amount of money and effort in the development of independent media. “Since 1995, the International Community has allocated over $60 million for media development (Udovicic, 2001). This assistance has been used to “create new media outlets such as the Open Broadcast Network (OBN) as well as to support independent–minded media that began during the war (Nezavisne Novine) or immediately following the Dayton Peace Accord (Reporter magazine)” (Taylor & Napoli, 2005, p. 474).

There were three steps by international community that provided important foundations. The first effort of the international community in regulating the B&H media environment was to bring together all six existing journalists’ associations in Bosnia and Herzegovina to define the Press Code establishing common ethical and professional

30 Misha Glenny, Noel Malcolm, Norman Cigar, Mark Thompson, Kemal Kurspahic.
31 Local analysts and media professionals: Halilovic, Mehmed; Kurspahic, Kemal; Udovicic, Zoran; Udovicic, Radenko; Babic, Dusan.
32 Daily newspaper from Banja Luka.
33 The weekly political magazine from Banja Luka.

standards in reporting. After long negotiations the Code was adopted on April 29, 1999. Generally, this code implemented existing European standards of journalistic practice, as the foundation of self–regulation of newspapers and periodicals, and relied on the professional ethics and professional standards of every journalist and editor.

The Press Council of Bosnia and Herzegovina (PCB&H) was established in the summer of 2000. B&H became the first transitional Southeast European country that established self–regulation in print journalism. Several international organizations played important roles in establishing the PCB&H: Organization for Security and Cooperation in Europe (OSCE), Mission of European Union in B&H, IMC and Irex Pro Media.

The battle for an independent media environment during the early post–DPA years was exceptionally dramatic and dangerous for those journalists and editors who were not under the surveillance of nationalist regimes. Zeljko Kopanja is the owner and editor in chief of the Banja Luka (Repulika Srpska) based daily Nezavisne Novine (Independent Newspaper). From late August to mid September 1999 he published several investigative reports about Bosnian Serb war crimes. He was the first journalist and editor in Republika Srpska to address this topic and although he received threats, he continued with the series of stories based on documents and eyewitnesses. He believes that the story about the killing of 200 Bosniaks in Central Bosnia, published on August 25, 1999 was almost fatal for him, because in that war–crime report he identified several persons involved. On the morning of October 22, 1999 a bomb placed under his car almost killed him, and left him a high double–amputee (Schaeffer–Duffy, 2000, p. 10). Fortunately,

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34 More information on the self-regulation of B&H print media, Press Council’s archive of complaints and cases, can be found on www.vzs.ba
Kopanja survived, but the assassination attempt alarmed both independent journalists and international authorities about the seriousness of the situation.

As media content continued to reflect political tendencies of isolationism, and spread extreme radical political ideas and ethnic intolerance, the need for regulatory policy was immediate. The first High Representative in B&H, former Swedish Prime Minister Carl Bildt, referring to the content of the Srpska Radio Televizija (SRT) during early 1996, said: “They put out propaganda that even Stalin would be ashamed of” (Kurspahic, 2002, p. 142). Carl Bildt also noted that in first months after the DPA, during the peaceful reintegration of Sarajevo, both SRT and TV B&H “were effectively working together to scare the Serbs away from Sarajevo. And the result was that we got nearly 100,000 new refugees, which very significantly complicated the entire issue of refugee return in the coming years” (Kurspahic, 2002, p. 143). During that time, Radio Televizija Bosne i Hercegovine (RTV B&H) suffered heavy losses and broadcast to a very limited area. Several transmitters, which before 1992 belonged to TV B&H in the territory under the Army of RS control, were even destroyed during the NATO intervention in late 1995.

Soon after the war ended, the international community started with preparations for the first post-war elections in September 1996. The Organization for Stabilization and Cooperation in Europe (OSCE) was monitoring the campaigns and election process, and they established the OSCE’s Media Experts Commission. The authority of that commission was unconvincing and weak, and media sanctions for interference with a fair and democratic pre-election campaign came too late.

Thus, awareness of the problem and attempts to deal with it represent a second important international initiative. Kurspahic cites the report “Monitoring Media: The
Bosnian Elections 1996,” by Mark Wheeler and two examples of anti-Bosnian and agitators’ media reports. The first one was carried by SRT in “News at 8” and the second one on Croatian Radio Mostar. In the “News at 8,” on June 29, 1996 editor of STV Ilija Guzina said:

Eight, yes, eight political parties from the Muslim–Croat Federation have entered the elections in Republika Srpska! The history of European and world democracy, going back to the time of Pericles, has probably never recorded that parties from one state entered elections of another… Serbs are presented with two possibilities at the polls. The first is to cast their votes for parties that stand for a united and whole Republika Srpska and for unification with Serbia one day. The second possibility is to give their votes to all those good-for-nothings who have now or somewhat earlier declared themselves as fighters for this or that right, and who are ready to surrender practically the whole state into [Muslim SDA President] Alija Izetbegovic’s hands” (as cited in Kurspahic, p. 147, 2002).

A radio report from the editor of the Hrvatski Radio Mostar, (HRM) (Croatian Radio Mostar), broadcast on July 29, 1996 went even further in hatred. In the context of his editorial about “even–more frequent crimes” of Muslims “against everything Croat” and about the “dirty fraud” perpetrated by the international community, Veseljko Cerkez said: “Not one Croat on this territory and beyond, conscious of the penalty, has the right to remain silent and look on while foreign and domestic hyenas from this space tear piece by piece at our body of freedom, land, and future” (Kuršpahic, 2002, p. 147). Wheeler noticed that hyenas in the context of this report were not just “Muslims and Western

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35 Although the official name of the entity was “Federation of Bosnia and Herzegovina”, SRT used the term “Muslim-Croat Federation” for several years after the DPA was signed.
Europeans,” but also Croats disloyal to the HDZ. One can notice the similarity of cited comments with the hatred rhetoric of the RTLM radio in Rwanda from 1994. Rwandese “Hate Radio” “disparaged the Tutsis as ‘cockroaches,’ fomented ethnic violence, and used the radio to tip off rampaging Hutus to the whereabouts of fleeing Tutsis” (Omestad, 2000).

According to Kurspahic, in the following year STV and Croatian nationalist TV Herzeg–Bosna continued to obstruct the peace process. In his book The Prime Time Crime (2002), he quotes two reports about the media situation after elections were held in 1996, the Media Plan report and the report of the Institute for War and Peace. The first report states:

In February (1997), on the occasion of a Muslim holiday, a crowd of Bosniaks expelled from the Croat–controlled part of the divided city of Mostar wanted to visit the cemetery on ‘the other side’ to pay their respect to loved ones. Leading the crowd were a local imam and local political leaders. As they walked toward the cemetery, Croat extremists attacked and shot at them, killing one of the Bosniaks and injuring twenty others. Croat TV reported that a ‘Muslim terrorist march’ on West Mostar had been stopped. When an international investigation proved that the attack against civilians visiting the graveyard was organized and led by the Croat police, the station followed that report with a commentary accusing the international community of ‘blaming Croats for everything in order to maintain good relations with oil–producing Muslim countries’ (Kurspahic, 2002, p. 148).

A second report describes another example, one that took place in Prijedor:
In mid–July 1997, when British Commandos serving in Bosnia killed Prijedor Police chief Simo Drljaca and arrested wartime town leader Mico Kovacevic in an operation aimed at arresting indicted war criminals, SRT exploded with hysterical anti–NATO rhetoric. A Brcko commentator called the Stabilization Forces (SFOR) soldiers ‘Al Capone mobsters’ and ‘dogs of war’, while the station’s reporter covering the local protests asked, ‘Why and for what reason are they killing only us, without trial, without any possibility of defense?’ As with all war crime inducements and arrests, SRT never bothered to inform its viewers of what those ‘Serb heroes’ were accused. In the Drljaca–Kovacevic case, the charge was the systematic ‘ethnic cleansing’ of almost all non Serbs from the Prijedor area and the killing and torture of hundreds of them in Omarska, Kreaterm, and Trnopolje concentration camps in 1992. (Kurspahic, 2002, p. 149)

The media campaign that SDS, through its mouthpiece SRT, started against the president of Republika Srpska – Biljana Plavsic, after she split with that party and its leader Radovan Karadzic36, overwhelmed the patience of the international community in Bosnia. Radovan Karadzic, the Bosnian Serb war–time president, although an indicted war criminal and removed from the political scene by the decision of international authorities, was still “the power from the shadow” and able to use the SRT airwaves to denounce the Dayton peace accord and slander Biljana Plavsic for cooperating with the

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36 The Yugoslav War Crimes Tribunal formally named Bosnian Serb leader Radovan Karadzic as a war-crimes suspect. “The name ‘butcher of Bosnia’ was one popular description of the first president of the Bosnian Serb republic. After Karadzic was indicted for war crimes in 1995 and forced to resign, he continued to run the Serb-controlled part of Bosnia and Herzegovina from a mountain hideaway outside the Bosnian capital of Sarajevo” (Britannica, 2005). For evading capturing for more than 9 years after the International War Crimes Tribunal accused him, he became a hero among a large part of Bosnian Serbs. The American administration offered a $5 Million reward for capture or information which would lead to the capture of Karadzic.
international community and accusing the SDS of corruption. In September 1997 CNN reported:

Western powers ordered NATO troops to seize several transmitters earlier this month to halt what they called a propaganda offensive against the peace agreement. The seizure effectively handed the airwaves to the hard-liners' political opponent, the Western-backed Bosnian Serb President Biljana Plavsic, who is headquartered in Banja Luka. (as cited in Markotich, 2000, p. 26).

As manifestations of extreme ethno-nationalism had more severe appearances on SRT and Croatian TV, Herzeg-Bosna, Sarajevo TVB&H was closer to the Bosniaks' ethnocentric SDA. Kurspahic records that SDA president Alija Izetbegovic had an hour and a half interview on TVB&H on the eve of the “quiet period” before the election. When the editor asked him whether he had any message for voters Izetbegovic promoted his party SDA, his “Coalition for United and Democratic Bosnia” and referred to the place on the voting list that should be circled.

However, the IFOR action in 1997 of seizing TV transmitters used by Serb Television, known for spreading hatred against the international community and the other two peoples in Bosnia-Herzegovina, was a turning point in ‘disciplining’ the Bosnian-Herzegovinian media. After that the OSCE Provisional Election Commission was given the possibility to punish media for inflammatory writing or reporting (Udovicic, 2001, p. 4).

The main problem with the OSCE’s mandate on sanctioning media misuse was limited to “demands to apologize” addressed to the media that aired messages containing political manipulation, language of hate, or messages aimed against international
authorities in Bosnia. International authorities in Bosnia realized that in such an environment alternative political options cannot be heard. Media controlled by ethnocentric governments in all three ethnically divided parts of B&H, were hardly supporting positions of nationalistic governments, and labeling not just other ethnic groups and spreading intolerance through a language of hate against other national groups, but also presenting negative propaganda against opposing parties and international involvement. That was especially the case with the media in RS and in the so called Croat Community of Herzeg–Bosnia. During that time, alternative political ideas did not have a true opportunity for fair and objective coverage.

The initial mandate that the international community saw was the creation of a media free of the political constraints that had characterized the scene during the 1992–1995 war. Emerging from Dayton was the perception that the dire political control exercised by nationalist parties, including a psychological predisposition for control inherited from the socialist past, and its replacing by some type of objective media was to be the first plank in affecting for the positive the BiH media scene (Markotich, 2000, p. 18).

Because of its mobility, even in an extreme war conditions, radio became more popular than ever before. Many new, local radio stations appeared, and radio programs were played everywhere; in cafe shops, markets, homes and cars. People were used to listening to radio programs more frequently during wartime, and for many of them this was the only source of information. Some local station had already emerged to broadcast alternative sources of information, and after the international community decided to support those who provided alternative and independent news sources, “many stations
subscribed to Voice of America, Radio Free Europe or Radio Deutsche Welle and offered different perspectives about events than the state–controlled media” (Taylor & Kent, 2000, p. 371).

The third important benchmark in the international media intervention was the establishment of the Open Broadcast Network (OBN) and the Radio FERN. The OBN is probably the most significant and most expensive media project ever launched and financed by the international community in any post–war country. “According to the information obtained from various sources, on which Media Plan Institute relies, 20 million dollars (without income from advertisements) were invested in OBN during the five years of its existence, while annual investment into FERN was one million dollars” (Udovicic, 2001, p. 6). The same author states that the international community had the naïve ambition in launching the OBN to eliminate the effects of long standing propaganda in just a few weeks.

For all the money and effort invested into the OBN project, Julie Poucher Harbin, the Institute for War and Peace reporter who spent years in post–war Sarajevo writes in her investigative report about the fall of OBN:

It was an inauspicious beginning: in the midst of a discussion programme the first night, someone kicked a plug, cutting the power and taking the programme off the air. Technical problems plagued the entire first week – the very days before the election – with the sound and even the picture often interrupted. (Harbin, 2001, p 3)

Furthermore, Harbin states that the quality of reports was inconsistent, and although some affiliate stations declared themselves as independent, they had strong

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37 TV OBN was the project of the OHR, and the Radio FERN was the project led by the OSCE. FERN stands for Free Elections Radio Network.
political affiliations. She also described the lack of professional standards, footage of endless press conferences and reporters who were scribbling down every single word. According to Harbin, the main difference between the OBN and other TV stations was that OBN’s reporters were reverent towards international representatives running B&H. Referring to reports of the International Federation of Journalists (IFJ) and the International Crisis Group (ICG) the other problem that Harbin points out was the OBN’s complete dependency on international financial support. Although they all noticed the potential of the OBN, especially in urban areas, they all doubted its viability. According to Chris Riley, the OHR’s Head of Media Development, there was a “difficulty in coming up with a strategy that would ensure it was self sustainable. OBN was not set up as a viable on-going business concern, it was set up to break the news monopoly” (as cited in Harbin, 2001, p. 4).

The average monthly salaries at the OBN were approximately $600, or 1200 KM, which attracted many good journalists and technical staff from the state TV and other TV stations. Since the program was broadcast over terrestrial, satellite and cable networks in the whole region (partly Croatia, partly Serbia, and majority of Bosnian territory) expenses were much higher than the moderate income from marketing. OBN had 14 affiliates, a 24 hour program schedule and produced 50–80% of its own programming. However, just the satellite monthly bill was 100,000 German Marks38 (Harbin, 2001, p. 5–6).

The report of the OSCEs’ Media Expert Commission from 1996 is not available, but according to the report from the 1998 election a total of 83 political parties and

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38 More than US $50,000 according to the exchange rate from 1997
independent candidates participated in general elections at all levels. Since the support from the international foundations, governmental and nongovernmental sources for alternative political options was abundant, certain media and political options were heavily supported but did not provide a true political or media alternative according to the expectation of international financers.

After the international community lost more than two years in experimenting with new media, letting furious ethnocentric parties dictate the media scene, international authorities abandoned their media projects and invested their money, effort and time into the reconstruction of existing media system and the establishment of the public broadcast services. Numerous education and training programs for journalists were started and supported by international organizations and coordinated by the OHR, OSCE, USAID, and the Open Society financed by the Soros Foundation Network.

Zoran Udovicic, president of Media Plan Institute Sarajevo and editor–in–chief of the Media Online Journal, believes that development of media in B&H after the war had several different phases. The first one was “the phase of verbal war” (Udovicic, 2001, p. 2), and it was followed immediately by the DPA. The main characteristics of that phase were extensive use of hate language, tough times for independent media and the failure of the international community to supervise media.

The next phase was characterized by a more agile intervention of the international community. The authority of the High Representative in B&H was broadened in May 1997, at the Portugal conference about the peace implementation in B&H. The OHR was allowed to suspend any broadcast station or any network which opposes the DPA, and to ask for the assistance of the international forces settled in B&H.
The third phase started with attempts of the international community to transform the state–run radio and TV stations into public services. Many decisions of the OHR followed the issues related to public broadcasters. Within this phase, Udovicic places the establishment of the first independent regulatory body in Bosnia: the Independent Media Commission (IMC) in 1998, and its transformation into the Communication Regulatory Agency (CRA) in 2001. The author stresses that during this phase explicit language of hate “vanished from most media” (Udovicic, 2001, p. 2).

Radio FERN was launched on July 15, 1996 primarily for the purpose of elections and presentation of different political ideas. Soon after FERN was established, the format was changed to “talk radio” with an abundance of reliable and balanced information. All relevant B&H and international media analysts agree on the positive role of FERN radio which covered 75% of the B&H territory and had equal treatment of all ethnic groups and issues. After FERN was shut down in 2001, personnel and equipment were moved to supplement the establishment of B&H Radio 1, the first national public radio station in B&H (Mediacentar Sarajevo, 2003, p. 11).

The last phase in the early intervention of the international community in the B&H media environment, was in 2001. Udovicic (2001) recognized this phase as an ongoing process and called it the “stabilization phase.” That is the phase in which the international community desisted from giving support to its own media projects – OBN and Radio FERN, which were never too well received in the local media community. Now the priority is being given to the transformation of the state media into public services. In this phase, OHR and OSCE work on building a media legislature. (p. 3)
3.2. Establishment of the Independent Media Commission in 1998

The turning point in international intervention within the B&H media environment occurred on June 11, 1998, when the High Representative Carlos Westendorp, according to his capacity within the authority of the DPA, imposed the “Decision on the Establishment of the Independent Media Commission in B&H” (IMC) (Westendorp, 1998). This was the first imposed media–environment–restructuring decision of the OHR in B&H. According to the decision, both Director General and Council of the IMC had to be appointed by the OHR. This decision gave wide authority to the newly established regulatory body, which was politically independent and had jurisdiction over the whole territory of B&H.

In addition to the IMC project, the OHR simultaneously worked on establishing the national public broadcast system. The TV B&H that existed back in 1998 was close to the SDA and the OHR did not have mechanisms to protect TV B&H’s political independence. The status quo “was a recipe for delay and obstruction, encouraging Izetbegovic’s SDA to believe it could preserve the existing RTV B&H indefinitely” (Thompson and De Luce, 2003, p. 157). The OHR presented a “Memorandum of Understanding and Restructuring of RTV B&H” that called for the creation of the public service of the Federation of B&H (RTV FB&H), which would eventually lead to the establishment of the National Public Service and unify the efforts and integrate SRT and the RTV FB&H39. That solution followed the logic of the political structure of B&H, but

39 In order to avoid the confusion and misinterpretation of the term “entity”, it is important to mention that the word “Entity” will be used as a synonymous for two political entities in B&H – the Federation of B&H
the Serb member of the B&H Presidency, Momcilo Krajisnik refused to sign the
document and condemned it as a “violation of the DPA” (Thompson and DeLuce, 2002,
p. 157). However, the international community in B&H adopted the Peace
Implementation Council declaration on media reform, which emphasized the need for
“legislation on public media that enshrined the principles of editorial independence,
religious tolerance and financial transparency, prevention of political parties domination
and respect for the interests of Bosnia’s three ‘constituent peoples’” (Thompson and De
Luce, 2003, p. 157–158). After the constitution of the RTV FB&H there was a constant
tendency of the Croat political party HDZ to agitate for the establishment of the third
separate channel because the party was never satisfied with the compromise solution of
only one public service in the Federation of B&H. A challenging issue for the
international community became an ultimate answer of the SDA and HDZ when they
directed more money to Cantonal⁴⁰ and local broadcasters. Specifically, during the war,
many communal⁴¹ TV stations were established in order to overcome a communication
blockade and inform local the community. SDA and HDZ realized that the broadcast
segment would be organized according to new standards, under the strict supervision of
the newly established regulatory body and international mentors, and they decided to
expand their transmitter network and invest the public money into the cantonal public
broadcasters.

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⁴⁰ Cantons are political units of the Federation of Bosnia and Herzegovina. Ten cantons exist in FB&H and
they all have own parliaments and governments and the wide set of jurisdictions, including police, judiciary,
education at all levels, health, agriculture etc.

⁴¹ Municipal level radio and TV station financed from the public sources.
Figure 3.1. Federation of Bosnia and Herzegovina and its cantons

Financing of communal and cantonal public broadcaster still represents an intriguing issue. According to local media expert, Enes Osmancevic, in previous years the municipality of Tuzla subsidized the communal media (one TV station – TV Tuzla, one radio station – Radio Tuzla, and one weekly bulletin) with KM 680,000
(approximately $ 455,000). Out of that amount, KM 350,000 belonged to TV Tuzla and KM 220,000 to Radio Tuzla, but Osmancevic states:

The curiosity in financing the ‘communal’ media by the municipality of Tuzla and from the public money represents the fact that TV Tuzla is already a privatized joined venture, and more than 51% of its shares belong to Temin Dedic, a Bosnian who lives in Switzerland. Dedic also owns the shares of Sarajevo daily Oslobodjenje. Municipality of Tuzla reduced the subsidies for communal media on the total of KM 360,000 in 2005. (Osmancevic, email correspondence, 2005) (see Appendix J).

The IMC that was authorized in 1998 had a complex task to establish regulatory standards, not just for broadcasters, but for other media as well and to create appropriate structures within the commission. The responsibilities of the IMC, according to the decision were to

draw up the Codes of Practice for broadcasters and other media as it considers appropriate, to license all broadcasters, to manage and assign spectrum for broadcasting purposes, ensure adherence to license conditions and Codes of Practice, set license fees and require the disclosure and provision of such information as is necessary for the due performance of its regulatory obligations. (Westendorp, 1998, p. 2)

To secure compliance of broadcasters and other media with the Codes of Practice (CP) and license standards, the IMC was equipped with the appropriate set of remedies for violations:
I. the requirement to publish an apology,

II. the issuance of warnings,

III. the making of orders,

IV. the imposition of financial penalties,

V. the suspension of license,

VI. the entry of premises,

VII. seizure of equipment,

VIII. the closedown of operations or

IX. the termination of the license (Westendorp, 1998, p. 2).

According to the decision, the IMC may enlist the support and assistance of law enforcement agencies in B&H and may seek assistance from the Stabilization Forces (SFOR). The establishment and the role of the Enforcement Panel of the IMC (EP) were also defined by the Code. According to the Code of Practices, the EP included representatives from both political entities and was authorized to “determine grave and serious breaches of CP and Licenses” (Westendorp, 1998, p. 2). Furthermore, the principles of objectivity, transparency, non discrimination and proportionality were to guide the work of the IMC.

The essential turning point in the international approach was supported in the document “Media Reform” from the Madrid Peace Implementation Conference. The Conference supported the High Representative’s activities to transform former state media into public service media. The international donors created financial support for

42 International military units assigned for peace keeping process in B&H, under the command of NATO.
43 More information on the Madrid Peace Implementation Conference at:
http://www.ohr.int/pic/default.asp?content_id=5190
the IMC; they urged implementation of media legislation; and requested the Serbian and Croatian states’ Radio TV stations to respect international broadcast standards (Udovicic, 2001, p 4.).

The Mission Statement of the new established IMC suggested that regulation of the media environment was at the rudimentary stage:

To **promote** just, tolerant and democratic society in Bosnia and Herzegovina through independent media committed to the highest standards of professional ethics.

To **establish** a fair, open and uniform process for the licensing and regulation of radio and television and management of frequency spectrum in conformity with best international standards.

To **encourage** the balanced development of public and private broadcasting and the growth of a strong domestic media market serving all the citizens of Bosnia and Herzegovina.

To **improve** the flow of information and ideas between all citizens of Bosnia and Herzegovina through the adoption of modern media and telecommunications technology.

To **strengthen** media by protecting and defending the professional rights and privileges of journalists (bold in original) (as cited in Markotich, 2000, p. 4).

The first IMC’s Director General was Krister Thelin, a Swedish lawyer, former judge of the Swedish Appeal Court and Swedish ex–Vice Minister of Justice. According to Markotich, the IMC was composed of its Council and Enforcement panel, Director General
and relevant departments, i.e., Licensing, Engineering, Monitoring and Complaints,
Legal, Public Affairs and Administration and Finance (Markotich, 2000, p. 47).

The first strategic move of the IMC was to find out more about existing
broadcasters and to set the standards for the long–term licenses. Since they knew very
little about the broadcasters Phase One of licensing required

each broadcaster in B&H to apply for and, if qualified, receive a 180–day
provisional license (subsequently extended for an indefinite period). Essentially,
this meant that radio and TV stations were entered into a binding contract with the
IMC to conform to a minimum set of internationally tried, tested and accepted
standards of broadcasting, including programme content. In turn, the IMC gave
them a level regulatory playing field on which to prove their merit (IMC Report

After Phase One of licensing was over in 1998, a total of 272 broadcasters were provided
with the provisional 180–day licenses. The technical standards and the condition of
equipment played an important role in the Phase One of licensing.

Soon after the Phase One was over, the IMC began implementation of the Code of
Broadcasting (Code) and to set the standards for the Licensing Phase Two. In an October
1999 policy paper, they addressed two major issues: the first was that under the new
licensing phase broadcasters would be subject to more strict criteria, and the second one
was that the “license could be used as a remedy” such as temporary suspension or a total
termination of the license (Markotich, 2000, p. 49). In addition, the mushrooming of
media in the underdeveloped postwar economy, which was passing through an
unsuccessful process of privatization, forced the IMC to be stricter about the financial
transparency. According to Markotich (2000), the IMC did not want to reduce the number of broadcasters arbitrarily just because B&H had more broadcasters than was feasible (p. 50-51). He said that the main principle that the IMC followed was to set the standards imminent for the democratic societies and implement them. In addition, the role of the IMC should be to encourage the development of commercial media and to set the standards for public services.

A major accomplishment of the IMC was certainly the jurisdiction over the whole B&H territory and successful implementation of the licensing standards and the Code. In the meantime the IMC addressed some important issues as their future duties: consolidation of the telecommunications and broadcasting regulation segment, development of the role and the place of the new technologies in regulations, and creation of priorities in prevention of piracy. The other important accomplishment was in interaction with all citizens and in receiving complaints about media content from citizens throughout B&H (Markotich, 2000, p. 50–51).

After Phase One was over the IMC had a clear idea about the B&H media environment. The next important issue was to define and make distinctions among private and public media. That was not always easy, because although some media were registered as private they received significant funds from political parties or from public budgets. The case of the Bosniak Radio Television (BRT) was a case of legally private ownership, but according to the former editor, Nedzad Latic, that TV station received around three and half million German Marks from the Islamic world fund raising collected by an SDA activist, his brother Dzemaludin Latic (Imamovic, Nov 19, 1999, p. 6). The SDA party continued trying to establish a Bosniak media network after the
international community had decided to transform the TV B&H and after the SDA had lost their major influence on TV B&H. Since the IMC aimed to make distinctions between private and public broadcasters and to define further the roles of public broadcasters in B&H, such combinations of political intervention within the formally private owned media were unacceptable.

It is also important to mention that besides the preparation to provide broadcasters with two–year and five–year licenses in a Phase Two, and making distinctions between private and public broadcasters, the IMC moved beyond counting transmitters towards future technological development, program content, regulation of Internet Service Providers (ISP), development of a feasible media market economy because “only in such a way media would be completely isolated from politics and ruling parties” (Markotich, 2000, p. 51–52). Furthermore, the international community in B&H made a significant effort in providing a legal framework for free speech and protection of journalists from political pressure by imposing a law decriminalizing libel and slander. Existing legislation represented a threat because the sanctions for journalists included imprisonment. This law also provided the right of access to information held by governmental authorities and provided a good framework for development of investigative journalism by democratic standards (Westendorp, July 30 1999, p. 5).

An interesting critique on the work of the IMC appeared in the local political magazine *B&H Dani* (B&H Days) from Sarajevo. The author of the article, Jasna Hasovic, stated that personnel of the IMC were not that eager to practice the standards of financial transparency and to be an open source of information. In her article, Hasovic concluded that the success of the IMC mission did not match the amount of money
provided for it. Referring to sources from the European Commission (EC) and the American Embassy in B&H, she figured that the annual budget of the IMC was approximately 3 million KM (approximately $1.7 million according to the exchange rate in 1998 and 1999) and that money was provided mainly from the EC and the USA.

Hasovic wrote that the Public Relations officer at the IMC, Zinaida Babovic, refused to provide financial documents and to answer questions about the projects on which money was spent. She quoted the IMC PR officer saying “those are not money of our taxpayers” and that the IMC had authorities in charge for financial supervision (Hasovic, 2001, p. 1). However, the reporter of the B&H Dani magazine believed that no one institution should be immune to public inquiry – especially not the institution which was involved in defining free and transparent media environment in B&H. Currently, the regulatory agency provides a full financial annual report on their web page.

The article also focused on the reaction of the Association of Broadcasters in B&H, after Phase Two of licensing was finished in the so called “test region” of Tuzla. Since the IMC applied completely new, more strict rules than during Phase One, 72% of electronic media were denied long–term licenses. In the region of Tuzla, out of 62 applications, 42 were denied and just 20 long–term licenses were provided for 5 public and 15 private broadcasters. All broadcasters were wary of the new rules and Phase Two. The IMC wanted to keep the anonymity of the members of the Licensing Commission because they were afraid of political lobbying. Representatives of the Association of Broadcasters complained about the content criteria, and they posed the question: “which experts will evaluate the content?” They also complained that on the list of IMC

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44 The map of the CRA’s 13 areas of broadcast service is provided on page 148 within the chapter VI, section 2 – “Media Concentration and Cross Ownership”.
employees “there is no one single name which deserves respect for his or her media skills or professional experience. There is no name from the field of communication science and there are no media analysts” (Hasovic, 2001, p. 4–5).

After Phase Two was finished, from a total of 272 broadcasters that held provisional licenses, 258 stations applied, and 75 stations or 29% did not qualify for a long–term license (Communications Regulatory Agency Annual Report for the Year of 2002). Out of 183 stations that qualified for a long–term license, there were 42 TV stations and 141 radio stations. Three broadcasters which represent the integral part of the Public Broadcasting System of B&H were not included in that number: PBS B&H (TV and Radio), RTV FB&H and RTV RS. After the end of this phase, the OHR concentrated on integration of the IMC and Telecommunication Regulatory Agency competences.

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<td>PRIVATE</td>
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Table 3.2. Number of broadcasters in Bosnia and Herzegovina after Phase Two was finished (CRA, 2003).

Although some local analysts estimate the total amount of donations invested in media reforms in B&H during the first five postwar years at 135 million German marks (more than $70 million), they emphasize that these figures should be taken with reserve. The General Manager of the OBN, Gabrijel Vukadin, says that when the international
community decided to establish a new TV station, they had to find a legal foundation to register the company, and since the regulatory body did not exist in August 1996, the only legal framework that remained was the law of the Yugoslav Federation, that allowed 49% of foreign investment in media companies. Vukadin said:

Because the OBN was funded by donors’ money and we were not allowed to make a profit, experts of the OHR and local governmental advisors found the solution in the establishment of the OBN International Trust in London and the OBN Sarajevo” (Mustajbegovic, 2004, p 22–23).

Vukadin also claims that the “international community kept all valuables in London, and registered 51% of funding capital as office equipment and computers” (Mustajbegovic, 2004, p 22–23).

However, many media analysts agree that the reform in the B&H media environment attracted a tremendous amount of money and that this was one of the most spectacular support efforts of donor countries in recent history. Many of them also agree that those operations were sometimes inconsistent, uncoordinated and confusing. Nevertheless, at the end of 1997, “20 offices of diverse [international] organizations dealing with B&H media were active in Sarajevo” (Udovicic, 2001, p. 5). However, soon after, international organizations lost interest in the B&H media environment, not because they finished their mission but because the “international machinery of military, political and media intervention shifted to another crisis area” (Udovicic, 2001, p. 5).

NATO intervention in Kosovo in 1999 drastically decreased the number of organizations dealing with media reforms in B&H, but the long-term consequences of that intervention had a positive impact on the development of independent media in the
region. The short term impact of the Serbian state media on media in the RS was the new challenge for the international community in B&H. Certain media in the RS acted as extensions of the Serbian government, broadcasting biased news and producing new xenophobic feelings, both anti-Western and anti-Albanian.

At the dawn of the outburst of Kosovo drama during the late fall of 1998, Milosevic’s regime has passed a law limiting independent media, and succeeded in producing an almost universal national negative sentiment against Kosovo Albanians, the USA, NATO and the international community. The new law passed in 1999 established criminal penalties for “publishing ‘anti–governmental’ and ‘anti–patriotic’” media content (Gladreeper, 1999, p. 23). However, during the Kosovo crisis the Serbian media had a major impact on Bosnian Serbs, especially in the region of Eastern Bosnia bordering Serbia. The signal of Radio TV Srbije (Serbian Radio TV) (RTS) covered most of the Eastern Bosnian territory close to the river Drina, where Serbian military and paramilitary troops changed the ethnic map during 1992–1995, and was now inhabited by Serbs from other parts of B&H. Three days after the NATO intervention began, the Serbian government introduced military censorship and the media started a verbal war against the enemy:

Tony Blair became ‘the little man with complexes’; Bill Clinton, ‘a sax player and a killer.’ As a group, they were referred to as ‘the sexually frustrated Clinton, his lesbian wife, Hillary, who is best friends with the wife of Tony Blair, the head of a homosexual government where the only non–queer is the well–known alcoholic Robin Cook’ (Gladreeper, 1999, p. 24).

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Media policy introduced in Serbia during the NATO intervention had tremendous consequences on the media environment in Republika Srpska, where some broadcasters simply repackaged Milosevic’s governmental propaganda in news. The political situation in RS was even more radicalized after the second general election in 1998. The candidate of the Serb Radical Party, Nikola Poplasen, won the RS Presidential position and immediately used his new authority against basic democratic principles.

Nikola Poplasen blocked the will of the people of RS by hindering the implementation of the election’s results, refusing to abide by the decisions of the National Assembly and consistently acting to impede the formation of a legitimate government with the support of the National Assembly. (Westendorp, March 5, 1999, p. 2)

He also “obstructed the implementation of the General Framework Agreement for Peace, acted to trigger instability in the Republika Srpska and thus put peace into risk in the Republika Srpska and in the whole of Bosnia and Herzegovina” (Westendorp, March 5, 1999, p. 2). This was the reason for the HR, Carlos Westendorp, to use his authority and remove Poplasen from the RS Presidential office.

Regulation of the media environment in RS took several years, and it started with the IMC fines for the disinformation and nationalist propaganda during the NATO intervention on Serbia. The next decision was imposed by the OHR, when he issued amendments to the Law on Broadcast Public Service in RS. According to Thompson, Bosnian Serb authorities continued to resist any change that would lead towards integration of media space, justifying it as defying an attempt to deprive RS of its autonomy. These amendments renamed SRT (Serbs Radio Television) into RTV RS and
promoted “principles of editorial independence, financial transparency and cultural pluralism. After the RTV RS subsequently failed to fulfill the spirit of the amendments and persisted with its mono–ethnic bias” (Thompson and De Luce, 2003, p. 160). OHR had to intervene again in 2000. That intervention brought a multiethnic Board for the first time since the station was established. The RTV RS was assigned a new task: “to ensure programming and staff reflect the ethnic and religious diversity of RS and B&H citizens” (Thompson and De Luce, 2003, p. 160).

In addition, electronic media from Zagreb, Croatia, heavily infiltrated the B&H market, continuing a propaganda war and doing far more to disable the transmission of RTV FB&H’s public broadcast service. Mostar–located EROTEL Television was a Croatian language broadcaster who got the provisional license as did many other broadcasters in B&H during Phase One. After the establishment of the RTV FB&H they were asked to limit their broadcast operations to 11 transmitters, and relinquish all others in order in order to facilitate the programming of TV FB&H. It is important to mention that EROTEL had produced just a minimum requirement of programming, and mainly just retransmitted the content of the Croatian state TV. The first Director General of the IMC, Krister Tellin, in an interview given to the local political magazine B&H Dani described the closing down of the EROTEL station:

On November 15, 1999, we offered them nine more days to fulfill the IMC demands and standards, but they refused to obey. We than asked for the SFOR support, but due to different reasons our decision was delayed until February 17, 2000. If HDZ [I am talking about the HDZ from Croatia] was just a little reasonable, the decision of closing the station would not be necessary at all. We
have offered them a very reasonable deal, but they did not read it or they did not understand it, because if the did, they would accept it. However, they put in danger 70 people, some really fine people, and they forced us and SFOR to intervene” (Suljagic, 2000).

TV EROTEL was shut down on November 15, 2000 and in the meantime major political change happened in Croatia causing less support for the extreme ethno–national politics of the HDZ B&H. However, the HDZ accused the IMC and the international community of “attacks on Croatian cultural identity” and rejected the situation in which the “station manager of a Croat language broadcaster could be a Bosniak” (Markotich, 2000, p. 31).

On February 17 and 19, 2000, TV B&H broadcasted the two–part BBC war drama “Warriors” starring Matthew Macfadyen. “Bloody and sickening in parts, Warriors is given extra poignancy by the fact that it is based on the real–life testimony of British soldiers from the Cheshire Regiment” which served in B&H during the NATO intervention (Udell, 1999). However, after the drama was aired, “a total of nine complaints were filed by BiH Croats, alleging the production had shown Croats in a particularly bad light” (Markotich, 2000, p. 28). The IMC Director Kristen Tellin sent a written statement to TV B&H:

The historical events and committed atrocities were not an issue in the Warriors case. The question is rather the timing of the broadcast and the absence of any back–ground commentary or discussion. The broadcast of the second part followed shortly after the start of the election period, and the sequel was thus targeting a politically sensitive period. Fair and impartial programming does not mean that broadcasters have to be absolutely neutral on controversial issues, but
they should deal even-handedly with opposing points of view in the arena of
democratic debate. Broadcasters should make full use of their freedom of
expression and offer their audience, amongst other things, high quality and
cultural programme. However, care and sensitivity should be taken in scheduling
drama and drama documentary programmes portraying controversial matters.
Impartiality may need to be reinforced by providing an opportunity for opposing
viewpoints to be expressed. This might take the form of a studio discussion
following the drama itself, or a separate programme providing the right of reply
within a reasonable period. In this respect the station did not, although not
violating the Code, live up to the expectation of a responsible public broadcaster”
(Markotich, 2000, p. 28–29).

In conclusion, the most important achievement of the OHR in this phase was
successful establishment of the IMC as a politically and financially independent media
regulatory body, with the jurisdiction over the whole B&H territory. Despite ill-informed
criticisms launched at the IMC from local politicians and even from some journalists’
associations, this committee in its early days established the Codes of Practice and
contributed in the setting up of other rules and guidelines. Afterwards, the majority of
journalists and media professionals perceived those rules and guidelines as assets. It is
also important to emphasize that the IMC acted as a partner to broadcasters and not as a
censor or supervisor of the program content, trying to establish a partnership with the
broadcasters (Markotich, 2000, p. 13). Legal framework for Phase One of licensing was
also set, which was “in fact a binding contract, which compelled recipients of the licence
to adhere to international broadcast standards rather than political dictates as means for
demonstrating preparedness for a longer–term commitment” (Markotich, 2000, p. 48). The main purpose of Phase One was to make the first steps in “regulating the media environment which was considered as chaotic, and to understand what existed, how it functioned, and what its tendencies were… those were preconditions for first making sense of the reality” (Markotich, 2001, p. 48). The national independent regulatory body was still in its infancy, but certain progress has been made and the evolution of regulatory policy was noticeable in the following Phase Two of long–term licensing. If Phase One was just the realizing the existing media environment and coping with the most rigid political misuse of media in fulfilling certain mono–ethnic agendas, in Phase Two the IMC set higher standards for awarding two and five years licenses.

However, the same level of international involvement continued in the next phase when the jurisdictions of the IMC were merged with the mandate of the Telecommunication Regulatory Agency (TRA), again by the decision of the OHR. According to Markotich, internationals still played the important role in advisory and supervisory capacities in the IMC. All important legislation in the domain of communications was imposed by the OHR.

3.3. Establishment of the Communication Regulatory Agency in 2001

The IMC “established the regulatory regime for broadcasting and other media in B&H and created appropriate the structure to fulfill this obligation” (Westendorp, 1998.). The structure included the Code of Practice, and the licensing regime for broadcasters. The terrain was set for expansion of the Commission’s jurisdictions.
The third High Representative in Bosnia and Herzegovina, Austrian diplomat Wolfgang Petrisch, made the decision to combine the competencies of the IMC and the Telecommunications Regulatory Agency46 (TRA). This decision was made on March 2, 2001, and it gave jurisdiction over both broadcasting and telecommunications to one single independent body, the Communication Regulatory Agency (CRA). One of the last decisions made by the predecessor of British diplomat Paddy Ashdown in the position of the HR, Wolfgang Petrisch, was to set the terrain for the further media reforms. Just a few days before Petrisch finished his mandate as the HR, he made a diplomatic maneuver47 and besides the Decision Combining the Competencies of the IMC and the TRA (the Decision) he imposed the Law on the Basis of the Public Broadcasting System and the Law on the Public Broadcasting Service of Bosnia and Herzegovina (Petrisch, 2002, p. 6). Petrisch decided to end the agony and endless opposition of local ethnocentric leaders at the end of his mandate, and imposed whole sets of laws on the establishment of the Public Broadcaster at the state level for the first time after the end of 199148. It immediately became a matter of debates and opposing reactions, especially from politicians and furious journalists with the xenophobic point of view from Republika Srpska. Furthermore, the decision to give the Central Board of Directors (CBD PBS) control over the three public services49 in Bosnia and Herzegovina initiated tumultuous reactions from Dragan Solaja, the Minister of Traffic and Communications of

46 The TRA was under the jurisdiction of the Ministry of Communications and had jurisdiction over the frequencies spectrum, telecommunications, ISP etc.
47 As a final interpreter of the civilian aspect of the DPA, the OHR has a mandate to impose laws in B&H unilaterally.
48 Even before the war B&H did not have a real Public Broadcast Service, but rather a state media that did not have sufficient time for transition because of political circumstances.
49 Two entities with two public services and one national public service projected to integrate their efforts and to serve all of the country: RTV RS and RTV FB&H as Entities’ services and the PBS B&H as the national public service.
RS. He said that this decision would seal the disappearance of the RT RS. Branko Dokic, the Minister of Communications and Traffic of B&H, thought that such a decision “carries very negative consequences” and that establishment of the CBD PBS could not solve the financial problems and distribution of the subscription fees. He expressed his concern that the role of Entities’ public broadcasters would be reduced to the role of correspondents and informative services. The reaction of the Association of the Journalists of RS was significant.

This decision is just an extension in a series of unsuccessful experiments with the public broadcast service, created by experts of questionable knowledge, under the protection of the OHR. They are trying to establish a Radio–TV broadcasting based exclusively on standards of the OHR, and their quasi–experts, and certain politicians who want to crash the structure based on the Constitution and establish centralized B&H. (as cited in Stevandic, 2002, p. 2)

Thus, as new structures emerged, old tensions remained. One can draw conclusions that the permanent pressure from local ethnocentric political elites training to preserve their influence over media through their manipulative statements are trying “to preserve the rights of their nation, culture and language.” On the other hand, one can notice continuous attempts of international diplomacy through the OHR and sparse independent local media to arrange the media environment according to democratic principles. The main approach of the architects of the independent telecommunications regulatory body in B&H in the segment of broadcasting media was to provide public services according to European democratic principles, and a fair environment for a
competitive media market. Further discussion about the regulatory concept implemented in B&H is in the following section.

The new Mission Statement of the CRA has significant difference in comparison with the Mission Statement of the IMC. Within the IMC’s statement, four out of five proclaimed missions were mainly oriented towards establishing basic democratic principles for a politically fair and tolerant media environment and improvement of journalistic standards. In the second part, the three principles promoted were management of the spectrum according to international standards, development of an open media market, and the adaptation of telecommunications technologies. The new Mission Statements echo previously established basic democratic principles and:

- Promotes the development of the information society in B&H;
- Encourages the development of a market–orientated and competitive communications sector for the benefit of all citizens of B&H;
- Stimulates conditions for the development of media freedom, and in so doing helps establish an open society;
- Enhances citizens' participation in contribution to the promotion of a professional and responsible media landscape;
- Protects the interests of all users and operators of telecommunication services in B&H in terms of non–discriminatory access, quality and prices of services;
- Encourages the introduction of new technologies and services according to customer needs;
- Issues broadcasting and telecommunications licenses in an open and fair manner, promoting the highest level of professionalism and business viability of the
broadcasting and telecommunications community in B&H (Mission Statement, 2002).

The intention of the OHR in combining two agencies was to “reinforce a comprehensive approach” and to “ensure the rapid development of a State–level regulatory mechanism for telecommunications and media and to ensure that they are not duplicative or conflicting regulatory competencies” (Petrisch, March 2, 2001, p. 2). The Decision also states consistency with the Brussels Declaration\(^{50}\) in which the Peace Implementation Council\(^{51}\) (PIC) fosters functional and “democratically accountable common institutions” (Petrisch, 2001, p. 2). According to the Declaration, the strategic priority of the PIC is to provide B&H with prerequisites for a modern European state, ready for Euro–Atlantic integration. In addition, they criticized institutional parallelism and lack of political will to work on the country’s integration.

Citizens must be well informed to be active participants in shaping their country. A public service broadcasting sector with strong and viable private competitors will help to ensure the public's right to know and stimulate vigorous public debate and a culture where public opinion serves as a check and balance on institutions. The regulatory role of an evolving Independent Media Commission under international supervision remains an essential tool to check the continued attempts

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\(^{50}\) The declaration brought by the Peace Implementation Council (PIC) and the Bosnian leaders in order to “review progress in the implementation of the General Framework Agreement for Peace (GFAP) in BiH and to set priorities for a new accelerated phase of peace implementation” (Declaration of the Peace Implementation Council, p. 1, 2000).

\(^{51}\) “The PIC comprises 55 countries and agencies that support the peace process in many different ways - by assisting it financially, providing troops for SFOR, or directly running operations in Bosnia and Herzegovina. There is also a fluctuating number of observers. Since the London Conference, the PIC has come together at the ministerial level another five times to review progress and define the goals of peace implementation for the coming period: in June 1996 in Florence; in December 1996 for a second time in London; in December 1997 in Bonn; in December 1998 in Madrid, and in May 2000 in Brussels” (The Peace Implementation Council and its Steering Board).
by political elements to control the broadcast media. The Council deplores any and all attempts to intimidate representatives of the independent media and insists that they be given the ability to operate freely throughout BiH (Declaration of the Peace Implementation Council, 2000, p. 5).

The Decision also emphasized the important role and economic benefit of the telecommunication sector in development of nations, and the importance of a unique and consistent regulatory policy in the world of dynamic technological development (Petrisch, 2001, p. 2–3). The Decision also highlights the fact that all members of the EU have a single comprehensive agency for telecommunications and the broadcast sector on a national level.

The Decision originally anticipated that the CRA Chief Executive “shall be appointed by the HR” (Petrisch, 2001, p. 3) which was later changed and became regulated by the national Law on Communications: “CRA is headed by the Director General, who is elected by CRA Council and approved by the Council of Ministers BiH”. He manages the day–to–day operations including implementation of relevant laws and policies, technical oversight, industry affairs and staffing” (Ashdown, 2002). This change was made in order to involve local government and local experts. Furthermore, the Decision anticipated creation of a broadcasting division and a telecommunication division among possible others. After the implementation of the Decision the following divisions were formed:

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52 The Council of Ministers (CM B&H) represents the executive branch of the B&H national governmental authority, which has governmental competencies and jurisdictions in accordance with the B&H Constitution and other laws of B&H. The CM B&H is based in Sarajevo. The term of office is the same as that of the Parliament. The CM B&H is composed of the ministers of: foreign affairs, international trade and economic relations, finances, communications and traffic, civil affairs, human rights and refugees, justice, security and defense (www.vijeceministara.gov.ba)
Telecommunications Division,
- Broadcasting Divisions and
- Frequency Spectrum Division.

The CRA performs its main duties through the four departments and two regional offices:
- Public Affairs Department
- Legal Department
- Finance Department
- Administration Department
- Regional Office Mostar
- Regional Office Banja Luka (CRA Structure, 2002)

The OHR proclaimed the principles of independency, objectivity, transparency and non-discrimination as the main principles in fulfillment the CRA duties. “Strategic and policy issues are handled by the CRA’s seven–member Council” (CRA Structure, 2002). The Council “adopts the codes of practice and rules for broadcasting and telecommunications, and international procedural rules” (Petrisch, 2001, p. 4). The Council is comprised of an International Chairman, plus four national and two international members and meets at least four times per year. In addition, the Council also acts as an appellate body. The Decision anticipated the attendance of the Chief Executive of the CRA as a non–voting participant at all meetings of the Council. The Enforcement Panel (EP) of the CRA is “empowered to deal with any cases concerning violation of licensing conditions or other rules applied by the CRA and to impose appropriate remedies or sanctions” (Petrisch, 2001, p. 4). Although the original Decision had
regulated the EP as a body of seven members (four nationals and three internationals),
the EP was actually comprised of seven national members.

The Decision brought significant change in the financing of the CRA. For the first
time the main financer of the CRA operations was the Council of Ministers B&H, or
more precisely “the overall budget of the CRA is an integral part of the budget of the
Common Institutions of B&H” (Petrisch, 2001, p. 5). Other financial sources included
“license fees and grants and donations received by CRA in so far they are in conformity
with general principles of law” (Petrisch, 2001, p 5.). The CRA was subject to review by
the Supreme Audit Institution, but the OHR decided to exempt the donated money for the
CRA from taxation because the “funds are donated for the benefit of the peoples of
Bosnia and Herzegovina” (Petrisch, 2001, p 6.).

According to the Decision, the CRA was officially a successor continuing all
operations of the IMC. “All acts, codes, rules, guidelines and decisions made by the IMC
and the TRA shall remain in force unless replaced or amended by decisions made by the
CRA” (CRA Rule No 10/2001, 2001). The CRA had a solid base prepared by the IMC
within the broadcast segment. A whole set of new laws regulating communications and
broadcast media was imposed by the OHR, and broadcast codes, rules and regulations
were established and already applied by the IMC. Those rules, codes and regulations
referred to “content, decency and civility, false and deceptive material, access to
information and freedom to publish, fair and impartial programming, accuracy and
balance, provocative language, religious programs and advertising programs” (CRA
Broadcast Division, April 2002). Definitions of public and private media were also
established by the IMC, and the IMC developed rules about the role of public media and
diversity of their programs. In addition, the IMC also established the set of regulations and requirements in terms of technical and financial capacities of broadcasters. Since the B&H market was still underdeveloped, the IMC set an interference-free environment and transparency of financial flow as the highest criteria for the long-term license in order to support viability for the optimal number of media. Poorly regulated spectrum allocations with many interference problems were successfully regulated by dividing the country territory into 13 regions for more efficient management of the spectrum, in accordance with the ITU rules.

A related and important achievement was the development of new democratic standards in print journalism by self-regulating print media and the establishment of the Press Council. Moreover, numerous training and journalism education programs helped local reporters to reexamine existing practices and set higher standards in their media environment. Still, regulatory policy and the improvement of media standards relied heavily on the international support in three ways: First, all operations of the CRA, as was true for the functioning of the whole country, still depended heavily on international authorities’ financial and conceptual support. From 1996 to 1999 the US Government invested approximately $34 million in order to support independent media and the regulation of the B&H media environment. From 1999 to 2003 the US Government invested an additional $14.5 million and in the period of 2003–2006 they are planning to provide additional $4.5 for the same purposes (Jusic, in Basic–Hrvatin, 2004, p. 63–64). Other important donors in this process who invested approximately same amount of money are the European Council and the Open Society Foundation. In addition, many governmental and nongovernmental funds supported the media transition in B&H. The
local analyst, Tarik Jusic (2004), in the study on effects of the ownership on indenpency and plurality of media, states that one should take the plurality of B&H media and the achievements of regulatory policy with the reserve because one cannot be sure about its capacities since foreign donors are still financing their survival and development (Basic–Hrvatin, p. 63-64). He indicates that the real democratic capacity of B&H media will be visible after foreign donors stop financial support completely (Jusic, in Basic–Hrvatin, p. 63–64). This issue will be further discussed in the Chapter VIII.

3.4. Theoretical Frame – Public Service Broadcasting – Serving the Public Interest as a General Principle of the International Media Intervention in Bosnia and Herzegovina

This section will provide a theoretical background of the international regulatory intervention in B&H. The author will analyze paradigmatic principles, approaches, and definitions applied in B&H by the international architects of the IMC, CRA and the public broadcast system of the country. Since the establishment of the regulatory agency in B&H had at least three different major stages and its own evolutionary process, one has to differentiate between them and recognize the principles used in setting up the B&H media environment. Within this section, the author will provide the brief analysis of relevant approaches, definitions and models that pioneered the new media concept in B&H:

- definitions of the audience, mass and public, by Alan Thomas and Wright Mills,
- observations of the public in B&H from the local analysts,
- the public sphere theory by Jurgen Habermas,
- the BBC public broadcasting model analyzed by Paddy Scannel,
- General Principles of Public Broadcasting adopted by the World Radio and Television Council (WRTC),
- certain analogies to the Allied control over German broadcasting after World War II,

Canadian author Alan Thomas published a study in 1960 in which he “explored the distinction between three notions of the same thing: the audience, the market, and the public” (Raboy, 2001, p. 182). According to Thomas, the main characteristic of the market is its predominant interest in goods rather than people. Simultaneously, there is a constant tendency to expand the profit. Translated to a language of media regulations, this produces a tendency toward deregulation. Thomas identifies public with the state and the community, and sees possible conflict between the market and the public. That conflict was explained in the example of Canada and the USA. “The whole history of Canada has been a conflict between a public, which is Canadian and the market, which has been predominantly American” (Raboy, 2001, p. 183). Thomas perceives the audience as a temporary group created by the public and the potential market. He states that the audience does not exist without the media.

From the previous chapters on the media environment in B&H during the last decades, one can draw the conclusion that the main reason for the radical international involvement in regulating the B&H media environment, undoubtedly, was to initiate democratic processes through the establishment of “media systems” which serve the public according to democratic standards. Since the development of a public in Bosnia did not follow the chronology of Western democratic societies, the approach in the encouragement of political public opinion was also atypical and comprehensive. In
general, the attempt of three ethnocentric political parties was to continue the war on
the information field. “The main protagonists have used information much like any other
weapons in their armories. Over time the physical confrontations have given way to
politicking” (Reynolds, 2004, p. 75).

During the early post DPA years, the international community has oversimplified
the dimensions of ethno–national confrontations and attempts of neighboring Serbia and
Croatia to expand their influences and territories in B&H. The international authorities
have also underestimated the consequences of media misuse in previous years, thinking
that they would reconcile the media environment with the establishment of politically
independent media outlets. They invested a significant amount of money in the
establishment of new media, which produced some success at the margins but did not
solve the initial problem of continuous political misuse of the government controlled
media outlets in the country ruled by three pseudo–democratic and xenophobic
governments. The establishment of the OBN and Radio FERN did not bring fundamental
changes in public opinion, since the same political parties were playing the key roles
from 1991 until the present time. Due to different political experiences of the whole
region, the absence of democratic heritage, and under–developed political public opinion,
“media and communications do not have the ability to influence Balkan audience
behavior and culture to the same extent as Western audiences” (Reynolds, 2004, p. 75).
The main difference is in the media themselves, in their democracy, in the lack of public
political discourse and in the predisposition of the audience to be influenced by different
ideological masteries.
The international community embodied in the OHR did not have a choice but to impose elementary rules in order to provide the basic regulation of the media environment. At the beginning, the assistance of the most powerful military troops in the world (NATO) was provided to the IMC and CRA because manipulative politicians were doing everything they could to maintain the status quo in the sphere of the media. The initial mistake of the international authorities was to give ethno–nationalistic elites almost three years to continue their wars with different resources, spreading the language of hate, political intolerance and an unfair media framework for the campaign and election process. The international community provided leadership and guidance in the establishment of the Independent Media Commission which set the necessary elements for further improvement of standards but also allowed the discharge of xenophobic feelings via media. In the later attempt, the international community transferred the IMC into a modern Communication Regulatory Agency that provided the best regulatory norms in the whole region. This effort represents an important step towards fulfillment of democratic standards and a fairly regulated environment for the media market.

According to Osmancevic (2004), the general characteristic of the B&H public is latency, which was not taken in consideration by the international authorities:

Such public opinion is not fully aware of its importance and importance of social issues immanent to the sphere of (political) public consciousness in democratic society. Bosnian public opinion is mainly passive and it is not public in the whole meaning of that word. Such extremely latent publics mainly do not react to social events and they are not interested in solving important social problems that are matters of public discourse in societies with developed democratic standards. But
in situations “at the edge” of socially acceptable behavior or in the situations when a threat exists for own interests and system of values of a certain community, those latent publics wake up and react. (p. 7)

The fundamental obstacle was that the B&H public traditionally did not have two–way channels provided for communication with their political authorities “because the B&H society, during its long history was rarely truly free. Because of the specific historical circumstances, the development of civilian public political opinion in B&H started with approximately two centuries delay” (Osmancevic, 2003, p. 22). However, the appearance of the public as a social phenomenon was not constituted in B&H with the principles of civilian public, but partially and mainly based on certain ideological dictates. The instantaneous and simple explanation for such deviation stems from the prior ruling ideologies—socialism and ethnocentrism—that do not have two way communication with the public. Further reasons can be found in the domination by the world empires, the influence of religious authorities on a multi–religious population, and constant political and territorial claims of neighboring Serbia and Croatia. According to B&H sociologist Asad Nuhanovic,

the B&H public was formed under the influence of external social, political and ideological forces for centuries. The Bosnian people never had freedom to choose their own behavioral pattern and to act freely whatsoever. The predominant way of constituting the public in B&H is within three cultural circles, as a fragment of influence of three religious communities”. (as cited in Osmancevic, 2003, p.23)

Although nominally different, two predominant ideological patterns have primarily influenced the media environment and the public. Socialism, as an idea of
egalitarianism, and nationalism, as an authoritarian and conservative set of ideas, had similar approaches to interaction with the public (audience) in former Yugoslavian republics in the matter of mass communication. The main characteristic of both political systems was lack of interaction and the imposition of their own set of ideas about the way society functions. Both ideologies were created by the dominant political groups, and they both attempted to impose their ideas on all members of the society. Accordingly, the definition of the Bosnian nation in the political sense, was never established; instead B&H has three constituent peoples: Bosniaks, Croats, and Serbs along with “Others.”

Democratic societies of the Western world have a different perception of the public and nation and “none of them can be said to be homogenous. In these societies the idea of the nation is largely understood as the intended unity of civil society, operating with the framework of democratic institutions” (Mahmutcehajic, 2003, p. 214). Three existing ideologies of ethno–centrism in B&H have had different developments and manifestations, but their concepts represent the joint obstacle for introducing the contemporary political definition of the nation in B&H, which would lead to the next step, evolving the democratic public or vice versa. All three represent the negation of civil, secular and democratic Bosnia: a Serbian ethno–national project and Serb state that would include all Serbs in former SFRY; a Croatian ethno–national project that would include all Croats in Croatia and B&H; and the Bosniak’s project – which emerged later – would form a ghetto–Muslim state within Bosnia in this “hostile environment” (Mahmutcehajic, 2003, p. 194).

One of the first theorists to discuss the materialization and reflections of “the public of opinion” was Charles Wright Mills. His perception and his definition of the
classical democratic public is what Mark Raboy calls “illusion” even for the USA in the 1950s. According to Mills:

The most important feature of the public of opinion, which the rise of the democratic middle class initiates, is the free ebb and flow of discussion. The possibilities of answering back, of organizing autonomous organs of public opinion, of realizing opinion in action, are held to be established by democratic institutions. The opinion that results from public discussion is understood to be a resolution that is then carried out by public action; it is, in one version, the “general will” of the people, which the legislative organ enacts into law, thus lending to it legal force. Congress, or Parliament, as an institution, crowns all the scattered publics; it is the archetype for each of the little circles of face–to–face citizens discussing their public business. (Mills, 1956)

Although Mills was not discussing public broadcast services in particular, Alan Thomas “allows us to think about the democratic possibilities of a new public service media model, grounded in the technological and geopolitical context of the 2000s” (Raboy, 2001, p. 184). In the previous sections the author of this study discusses the early stage of the media intervention and the relatively naïve belief of the international community that they could neutralize the tremendous effects of locally controlled media by installing the OBN and Radio FERN. The intention here is not to examine unsuccessful attempts of the international community in the media segment of the peace implementation process. However, there is an impression that in the early stage of the international intervention, their experts had oversimplified the social gap created by the influence of xenophobic movements, and they overestimated the democratic capabilities
of B&H public. In general, the international authorities have tried to apply Mill’s definition of the public in the environment where the majority still supported medieval political concepts and where the dominant characteristics of the society were closer to Mill’s definition of the mass rather than public. Following Mill’s definitions clearly distinguishes categories of public and mass, based on the role of media.

In a public… (1) virtually as many people express opinions as receive them. (2) Public communications are so organized that there is a chance immediately and effectively to answer back any opinions expressed in public. Opinion formed by such discussion (3) readily finds an outlet in effective action, even against—if necessary—the prevailing system of authority. And (4) authoritative institutions do not penetrate the public; which is more or less autonomous in its operations.

(Raboy, 2001, p. 183–184)

According to Mill’s interpretation, at the opposite extreme of a public is a mass, where:

(1) far fewer people express opinions than receive them: for the community of public becomes an abstract collection of individuals who receive impressions from the mass media. (2) The communications that prevail are so organized that it is difficult or impossible for the individual to answer back immediately or with any effect. (3) The realization of opinion in action is controlled by authorities who organize and control the channels of such action. The mass has no autonomy from institutions. (Raboy, 2001, p. 184)

From the previous chapters of this study it is obvious that the socio–political obstacles still represent the main limitations for further development of democratic standards and reintegration of the torn B&H territory and divided peoples. One can draw
the conclusion that an underdeveloped democratic heritage and a lack of public social sphere represents the prevalent characteristics of the B&H society, since the majority still vote for ethnocentric options. From the early 1990s the country suffered extensive pressure from ethnonational politics, and instead of a democratic transition of the public sphere towards the political pluralism, B&H basically got three ethnically divided crowds, uncritical towards their political representatives and easy to manipulate. While the European countries with a developed democratic heritage were redefining concepts of community, nation, citizenship and public according to new standards of European integration, the Bosnian–Herzegovinian people and the country remained more divided and discordant than ever.

Nevertheless, the international community embodied in the OHR was resolute in trying to establish a media environment that would serve the public interest. According to Patricia Aufderheide (1999) a “communication policy either encourages or discourages public life, whatever its intent” (p. 7). Because the development of the political culture and democratic standards in B&H was the prime priority of the international community, they decided to create a local media policy which would encourage further development of the political public. One can notice the significant difference in the American and European perception of the term public interest. According to Aufderheide, “the term public interest is grounded in a notion of governmental responsibility to create conditions for a healthy business that can serve a broad range of consumers” (1999, p. 13,).

Aufderheide questions “the viability of the association between the public interest and the competitive environment in communication policy” and the ability of media in a competitive environment to foster democratic behaviors, public life and mutual respect
(1999, p. 108). However, the American approach in regulating the media environment was not viable in B&H.

The main idea of the international community engaged in shaping of the B&H media environment reforms was to provide a public service to all citizens, and to set a fair market environment for the commercial media. Since the end of the war, ethnocentric parties have resisted reforms, and they have tried different obstructions of the process that would lead to the establishment of politically and ideologically neutral public broadcasters, which would serve the interests of the people. However, the xenophobic parties were trying to protect their fields of influence, to expand them or at least keep the status quo. This can be illustrated by the refusal of the SDS representatives to sign a memorandum\textsuperscript{53} about the establishment of public broadcasts at the state level. Another example is the attempt of the SDA to prevent the influence over the RTV B&H before it was transferred into the one entity’s (Federation of Bosnia and Herzegovina) public service as a first step towards the establishment of the PBS B&H (Thompson and De Luce, 2003, p. 157). The HDZ, even ten years after the DPA, still demands an exclusive Croatian radio and TV channel as a part of RTV FB&H. The HDZ representative in the Parliament of the FB&H, Filip Andric, said that his political party will advise Croat households to pay subscription fees when the channel in Croatian language is established. Until then, according to Andric, the HDZ representatives will continue to support Bosnian–Herzegovinian Croat households in boycotting of payment subscription fees (Unatoc tuzbama Hrvati neodustaju od svog kanala, 2004). In general, the constant

obstruction and resistance of local structures towards the media reforms that would contribute to the evolution of a democratic public, was always present. This was the main reason for the OHR to move the regulatory body out of range of political influences.

The general approach in regulating the B&H media environment was the idea of public service. The dominant model used for development of the broadcasting system and its regulation in B&H was the British principle of public service. “The British solution, back in the early 1920s, was the creation of a single company, the British Broadcast Company, licensed to broadcast by the Post Office and financed by an annual licence fee charged on all households with a wireless” (Scannell, 1989, p. 121). The first broadcast committee established by the British Post Office in 1923, was in charge of the broadcast and the spectrum regulations. In the first report made by the chairman of this committee, Major–General Sir Frederick Sykes, significant change was made in the definition of the spectrum as a “public property” and the authors remarked about the responsibility for the usage of this property.

The wavebands available in any country must be regarded as a valuable form of public property; and the right to use them for any purpose should be given after full and careful consideration. Those which are assigned to any particular interest should be subject to the safeguards necessary to protect the public interest in the future. (as cited in Scannell, 1989, p. 121)

Besides the promotion of the public interest, General Sykes was also aware of broadcasting’s “potential power over public opinion and the life of the nation” and suggested control over it (Scannell, 1989, p. 121). He has also emphasized that broadcast operations represent an important national service and that an unrestricted commercial
monopoly cannot be allowed. He was also against direct governmental control and rather for “the terms of licence which would specify the general responsibilities of the broadcasters and hold them answerable for the conduct of the service to that state department” (Scannell, 1989, p. 122).

The first Director–General of the British Broadcast Corporation from 1927 to 1938, John Reith, was invited by the British broadcasting committee to establish guidelines for the future of broadcasting on a long–term basis. In a memorandum, which he wrote back in 1925, one can recognize the “desirability of the conduct of broadcasting as a public service” (Scannell, 1989, p. 122). In his memorandum, Reith emphasized “concern for the maintenance of the high standards,” and ascertained that “the service must not be used for entertainment purposes alone” (Scannell, 1989, p. 122). In addition Reith pointed out the responsibility of the broadcasters “to bring into the greatest possible number of homes in the fullest degree all that was best in every department of human knowledge, endeavor and achievement” (Scannell, 1989, p. 122). He has also emphasized the preservation of morality and avoidance of a hurtful and vulgar tone, public broadcasting’s educative role and their mission to spread knowledge in coordination with educational institutions, and the significant social and political function of broadcasters and their responsibility for “creation of an informed and enlightened democracy” (Scannell, 1998, p. 123). Reith also believed that “providing a common access to the wide range of public events and ceremonies would act as a social cement, binding people together in the shared idioms of a public, corporate, national life” (Scannell, 1989, p. 123). Moreover, he was for the promotion of gender equality, for development of public
opinion and strongly against the maintenance of the BBC monopoly of broadcasting in the United Kingdom.

After the arrival of Direct Broadcast Satellite (DBS) television services in early 1980s, it was necessary to reexamine the main principles of the public service. According to the booklet produced by the Broadcast Research Unit in 1985 eight principles were identified:

1. Universality: Geographic – broadcast programs should be available to the whole population.
2. Universality of appeal – broadcast programs should cater to all tastes and interests.
3. Minorities, especially disadvantaged minorities, should receive particular provision.
4. Broadcasters should recognize their special relationship to the sense of national identity and community.
5. Broadcasting should be distanced from all vested interests and in particular from those of the government of the day.
6. Universality of payment– one main instrument of broadcasting should be directly funded by the corpus of users.
7. Broadcasting should be structured so as to encourage competition in good programming rather than competition for numbers.
8. The public guidelines for broadcasting should be designed to liberate rather than restrict the program makers. (as cited in The Public Service Tradition in British Broadcasting, 2005)
In his observation of the phenomenon of the public sphere, Jurgen Habermas (1989) states that “citizens act as a public when they deal with matters of general interest without being subject to coercion; thus with the guarantee that they may assemble and unite freely, and express and publicize their opinions freely” (p. 92). Habermas also recognizes the dissemination of information and the influence of mass media in the creation of the political public sphere. He states that the position that public opinion inhabits as a “function of criticism and control of organized state authority that the public exercises informally, as well as formally during periodic elections” (p. 93). In addition, Habermas comprehends public opinion as a sphere that mediates between state and society, and media as a vehicle and guide of the public, but he recognizes the influence of different ideologies and the weakening of the public sphere in contemporary society. The election process in the early post–DPA years was mainly characterized by the triumph of ethnocentric concepts and their efforts to maintain control over the media outlets. Therefore, the international community in B&H, after the errors with investing money and time in establishment of new media as OBN and Radio FERN, recognized the priority of providing a regulated media environment. According to Bratic (2005), who conducted personal interviews with relevant media professionals in B&H, the most significant development in the post–conflict media environment was the regulation of the media field (p. 190). Furthermore, one CRA official noted another benefit of the regulatory agency for the development of a democratic public sphere in B&H. Although “the complaints about harmful media messages in the beginning came exclusively from monitoring agencies, 80 percent of all complaints in 2003 come directly from the citizens” (as cited in Bratic, 2005, p. 191).
The General Principles of Public Broadcasting was presented by the international nongovernmental organization World Radio and Television Council (WRTC) in 2000 and it represents a crucial document of the contemporary principles for public service broadcasting. In defining the outline of universal principles the WRTC was supported by UNESCO. In the document the WRTC developed several categories of principles important for the functioning of the public broadcast sector: (1) General principles, (2) Financing, (3) Program content, (4) Objectivity and impartiality, (5) Structure and autonomy. They also provided (6) a model of public broadcast service law, discussed (7) technology and the future of the public service and provided (8) a concluding overview.

Within the category of general principles the document prioritized universality, diversity and independence as essential categories of public broadcasting, and added distinctiveness as a necessity in the era of commercialization of TV programs. The document also describes the ideal qualities of the public broadcasters’ financing:

a) it is guaranteed for many years so that politicians cannot interfere,

b) it is sufficient to achieve the multiple tasks the public service broadcaster must perform,

c) it allows some opportunity for accountability. (Price & Raboy, 2003, p. 4)

The previous chapter mentioned the statistics about the number of cantonal and municipal (or communal) broadcast organizations subsidized with tax money. Inconsistency with item a, about political interference in budgeting public broadcasters at the local level can be explained with numerous examples. The Radio Television of the Tuzla Canton (RTV TK) public broadcast organization which covers a region of
approximately 600,000 people, is financially dependent on the will of the Cantonal government to sign the subsidiary contract on an annual basis. That is the reason why those radio TV stations are servile towards cantonal governments, and major political parties, why they rarely cover and discuss controversial issues and why they do not satisfy elementary principles of public service. Therefore, it is necessary to reexamine the methods of subsidizing cantonal and communal RTV stations in B&H in order to provide true public service.

The General Principles of Public Broadcasting discusses the types of financing that should be favored for public broadcasting. License fees “create direct relationship between the broadcaster and its public,” and they “remain the most widespread form of financing in Europe” (Price & Raboy, 2003, p. 5). In the past few years, under the influence of commercial stations and heavy pressure from competition the public broadcast segment has “opened up to advertising or resorted to it more, created new subscriber services or launched wholly commercial activities to finance their main service” (Price & Raboy, 2003, p. 5). The document emphasizes concern about the pressure of commercial effects on public service obligations in the field of programming, but also warns of advertising phobia. According to a McKinsey study on public service broadcasters around the world, “the higher the advertising figure as a portion of total revenues, the less distinctive a public service broadcaster is likely to be,” but some studies have shown that to the younger audience, “the absence of advertising would seem suspicious, a sign of something elitist, therefore boring, even square” (Price & Raboy, 2003, p. 6).
Furthermore, the General Principles set the ideal funding model in a list of priorities:

- Substantial enough to create a true competitor to commercial channels
- Independent from undue government or other influences
- Predictable over the medium term
- Growing at a similar or faster pace then the PBS’s costs
- Sufficiently simple and equitable that it can be administered with minimum political controversy. (Price & Raboy, 2003, p. 9)

In addition, the General Principles document offers the foundational characteristics of the programming that a public broadcaster should offer. Since the programming issue represents the most sensitive problem and it depends on many other factors, the principles in the field of programming are set as more general categories and further discussed in detail:

- Unbiased, enlightening information
- General interest and full service programming
- Programs that leave their mark
- In house production
- National content

A public broadcaster should have the necessary level of independence from the state and governmental authorities. The section about the structure and autonomy discusses the ways of ensuring enough accountability through transparency in relations with the governmental structures and autonomy through the organizational structure. Since the political environment and culture is different from country to country, just the general
principles are provided, as in the case of a model for public service broadcasting law, which was created for the European Broadcast Union by Werner Rumphorst in 1998.

General principles of the public broadcasting in B&H were presented within a study by local researcher Samir Omerovic’s “Painful Reconstruction of the Public Radio TV Service.” In this study he prioritizes the list of characteristics of the B&H public broadcast service which is not fulfilling the European standards. Omerovic’s list represents the combination of the qualities of the public service established in two recent European Mass Media Policy conferences. (Mediacentar Sarajevo, 2003, p. 5).

Rephrasing Omerovic’s detailed explanations, the main principles of the B&H broadcast service should be:

- Universal coverage: cover the whole territory, and enable 100% of the audience to receive programs without the use of special equipment,
- Program diversity: programs should cater to all social categories, and provide variety of genres
- Universality of payment: every household is obliged to pay subscription fees
- Independency: public service will not incline towards any political, social, economical group, nor serve the interests of the government of the day, advertisers nor individual centers of power.
- Education: public service should provide the educative content: documentaries on nature, history, contemporary technologies, music, fine arts etc.
- Care of minorities: a concept of the public broadcast services is in serving the society as a whole, and serving the interests of majority. Since the B&H is a
specific case in the matter of ethnical, religious, and cultural heritage it is important to emphasize this principle.

- Serving the interests of public.

According to Omerovic, the main problem in B&H was an unfair approach to competition between public services and commercial broadcasters. Public services now have the capabilities to cover the whole country, but they continue to compete with the commercial broadcast sector by broadcasting content that should not be characteristic to public broadcasters (Omerovic, 2003, p. 4). As an illustration, some popular American programs aired on TV FB&H include: Sex and the City, The Apprentice, Oprah, local reality shows and the most popular sport programs such as the European Soccer Championship. Such programming should be essentially aired on commercial TV stations. Simultaneously, TV FB&H (as RTV RS and the PBS B&H) lacks production of their own educational programming, high–quality documentaries and dramas, which should be one of the characteristics of the public service.

Moreover, one can make an analogy between the Allied countries’ total control in the process of regulation of German broadcasting after the Second World War and the international influence in the creation of media regulation policy in B&H after the DPA. After the capitulation of the Third Reich, “all German–language radio and TV stations were under the authority of the US Information Service” (Porter and Hasselbach, 1991, p. 1). In addition, the West German constitution was created under the Allied supervision in 1949, and it provided for “free formation, expression and dissemination of public and individual opinion, and the institutional freedoms of broadcasting press… freedom of art, science, research and teaching” (Porter and Hasselbach, 1991, p. 4). The idea of classic
political liberalism was replaced by “the concept of all-embracing democratic state, the social and legal state (socialer Rechtsstaat), which gained its legitimacy through political representation of its citizens in parliament” (Porter and Hasselbach, 1991, p. 5).

The ideas of civil rights and the ideals of West German pluralism interpreted by the German Constitutional court included the importance of the development of the political public opinion as a constant influence on government action. Furthermore, the Allies who were in control of the German broadcast system and the frequency spectrum insisted on independence of the broadcast system from the state institutions’ influence and representation of all social groups in their programs. The integral part of the German Constitution, known as a Basic Law, was the Occupation Statute. The Statute ruled any decision made by occupation authorities as supreme before the Basic Law (Porter and Hasselbach, 1991, p. 28). The OHR similarly has supreme authority, and the efforts to reshape the media environment in B&H are part of the broader effort to promote an “all-embracing democratic state”.
CHAPTER 4
Responsibilities and Jurisdictions of the Communications Regulatory Agency

This chapter will examine the current role and duties, structure, mission statement and financing of the CRA. The CRA follows modern trends of efficient and effective communication regulatory bodies with political independence and sole jurisdiction over telecommunications and broadcasting across the entire territory of B&H.

4.1. Structure and Divisions of the Communications Regulatory Agency

Although established more than 18 month earlier, the structure and the mission of the CRA was legally defined and confirmed by the Communication Law (CL) of B&H, imposed by the OHR on October 21, 2002. According to the CL, the CRA is a “functionally independent and a non-profit making institution” which “shall carry out its duties pursuant to the objectives and regulatory principles…In fulfillment of its duties, the Agency shall act in accordance with the principles of objectivity, transparency and nondiscrimination” (Ashdown, Oct 21, 2002, p. 27). The governing bodies of the CRA are:

– The Council of the Agency

– Director General of the Agency
According to the CL “neither the Council of Ministers of B&H\(^{54}\), nor individual Ministers nor any other person shall in any way interfere in the decision–making of the Agency in individual cases” (Ashdown, Oct 21, 2002, p. 27).

The Council of the CRA “shall guide the Agency with regard to strategic issues of law implementation and will confer with and receive reports from the Director General. The Council of the Agency shall adopt codes of practice and rules for broadcasting and telecommunications” (Ashdown, Oct 21, 2002, p. 28). The Council also serves as an appellate body for decisions of the Director General. The Council of the CRA consists of seven members nominated by the Council of Ministers of B&H, and appointed by the Parliament of B&H, which represents the crucial difference in comparison with the IMC’s procedure of appointing the members of Council. Before the new communications law was passed, all seven members of the IMC’s Council were initially appointed by the High Representative (Markotich, 2001, p. 8). Political independency should be accomplished by the methodology established in the Communication Law; according to Article IX. 39 the Council of the Agency submits a list of candidates to the Council of Ministers. A list of candidates comprises twice as many candidates as posts available, and appointed by the Parliament of Bosnia and Herzegovina. The Parliament shall accept or reject these nominations within thirty [30] days after submission of the nominations. If the Parliament rejects a nomination, the Council of Ministers shall nominate another

\(^{54}\) The Council of Ministers (CM) of B&H represents the executive branch of the government of Bosnia and Herzegovina. The CM is responsible for the fields of: foreign policy, foreign trade policy, customs policies, monetary policy, finances of the institutions and for the international obligations of B&H, human rights refuge and asylum policy and regulations, international and inter-entity criminal law enforcement, including relations with the Interpol, establishment and operation of common and international communications facilities, regulation of inter-entity transportation, air traffic control, justice, security and defense and other matters as agreed by the Entities (http://www.vijeceminstara.gov.ba/bosanski/vm.php).
person from the list of candidates submitted by the Council of the Agency.

(Ashdown, Oct 21, 2002)

According to the CL, the members of the Council of the Agency should be “individuals with exceptional legal, economic, technical or other relevant expertise and experience for the fields of telecommunications and/or broadcasting. They are appointed for a term of four years and may be reappointed only once” (Ashdown, Oct 21, 2002, p. 29). The Council holds a minimum of four meetings a year and receives reports from the Director General on strategic issues of implementation. The Director General attends their meetings as a non-voting member (Ashdown, Oct 21, 2002, p. 29). The members of the Council of the Agency cannot carry on any executive function, or have membership in political party branches. They also have to “declare any interest in a telecommunications operator or a broadcaster and shall recuse themselves in cases that present a conflict of interest” (Ashdown, Oct 21, 2002, p. 29).

The Director General of the CRA is nominated and appointed by the Council of Ministers of B&H and carries responsibility for all administrative functions of the CRA, including implementation of the CL, other relevant rules and procedures, and staffing issues. The Director General serves a four-year term with a possibility of one reappointment. The same rules on membership and executive functions applicable for the members of Council of the Agency are applicable for the function of Director General. In addition the “Director General shall not have any financial relation with a telecommunication operator or broadcaster” (Ashdown, Oct 21, 2002, p. 29). The current Director General is Kemal Huseinovic, and members of the Council of the Agency are: Neven Tomic (Chairman), Mahir Hadziahmetovic (Vice–chairman), Slobodan Boskovic,
According to Amela Odobasic, the PR officer of the CRA, members of the Council of the Agency and the Director General can be politically independent, although they are appointed by the governmental bodies. Odobasic states that:

the CRA cannot exist in a vacuum and has to be responsible to someone after all. Independency is based on two pillars: financial independency and independency in decision making. Finally, the term independency is relative. We believe that the most important thing is the legal mechanism which disabled politicians to fetter our operations by cutting off our finances or providing them piece by piece. They also cannot impose their partial solutions, because we work for the interests of the B&H public. However, the CRA exists within the B&H’s legal system and in this system as in many others politicians and political interests are integral part of a system. It is important to emphasize that the CRA announces open competitions for the members of the Council of the Agency and the position of the Director General. According to the law, we provide a list of 14 candidates for the Council, and the Parliament actually does not appoint the members. They just confirm them, and that is all what the Council of Ministers and the Parliament can do. I strongly believe that the CRA is now provided with more political independency than other regulatory agencies such as German, Austrian, British, Croatian agencies, and of course the FCC. (Odobasic, personal email correspondence, Jun 2, 2005).
Until December 31, 2004, the CRA had the Enforcement Panel under their jurisdiction. The role of the Enforcement Panel was to deal with cases concerning violation of license terms and conditions and other rules of the CRA and to impose appropriate remedies and sanctions. According to the CL, after this date the role and functions of the Enforcement Panel will be performed by the Director General. According to the decision of the OHR, the combination of power and functions were “necessary after a transitional time in order to allow the Agency to fulfill its responsibilities in a future fully liberalized environment” (Ashdown, Oct 21, 2002, p. 2–34). Thus, in accordance with the CL, the Director General of the CRA is responsible for control and implementation of:

- Legislation
- Telecommunications Sector Policy Document
- Guidelines of the Council and Enforcement Panel of the Agency
- Technical functions of the Agency
- Operation of the Departments of the Agency
- Administrative function of the Agency
- Employment Policy of the Agency
- Appointment of the top management. (CRA Structure, 2005)

The CL defines the conditions for dismissal of the Council members and the Director General. The Parliament of B&H is authorized to perform the dismissal of the Council members and the Council of Ministers has authority to dismiss the Director General in cases of: illness which causes incapability of performing duties; conviction of a crime punishable by imprisonment; a conflict of interest defined by the Agency’s Code of

The primary responsibility of the CRA is regulating the three aspects of convergent communications: telecommunications, broadcasting, and frequency spectrum management. For performing their main duties, the CRA has three operational divisions:

- Telecommunications Division,
- Frequency Spectrum Division and
- Broadcasting Division

The CRA has five departments which comprise the CRA and perform the daily routines:

- Public Affairs Department
- Legal Department
- Finance Department
- Administration Department
- Regional Office Mostar
- Regional Office Banja Luka. (CRA Structure, 2005)

According to Amela Odobasic, the CRA’s PR Officer, in the most recent systematization of the CRA, the organizational structure was changed insignificantly (personal email correspondence, June 1, 2005). For the current structure of the CRA see Appendix K.

### 4.2. Funding of the Communications Regulatory Agency

It is important to emphasize that after the CL was passed, the budgeting of the CRA became the sole responsibility of the local executives, embodied in the Council of Ministers of B&H. Article 44 of the Law on Communications of B&H defines all financial matters of the CRA. According to this law, the “Director General shall submit a
budget for each fiscal year, previously adopted by the Council of the Agency, to the Council of Ministers for approval” (Ashdown, Oct 21, 2002, p. 31). The funding of the CRA comes from the license fees, and grants and donations received in accordance with the laws. All fines collected by the CRA are “remitted to the Council of Ministers for inclusion in the budget of the institutions of Bosnia and Herzegovina” (Ashdown, Oct 21, 2002, p. 31). The CRA is obliged to prepare an annual report of its finances and activities and submit it to the Council of Ministers. The CRA is subject to review by the Supreme Audit Institution. Money from the fines is not used for supplementation of the CRA’s budget, but “remitted to the Council of Ministers for inclusion in the budget of the institutions of Bosnia and Herzegovina” (Ashdown, Oct 21, 2002).

According to the most recent publicly available annual report from 2002, the CRA planned to realize income of KM 4,331,050\textsuperscript{55}, and accomplished KM 5,375,382. This surprising statistic represents the fact that during 2002 the CRA had exceptionally modest supplies from abroad—just KM 14,230 or less than $ 10,000. The CRA had expenditures of KM 4,646,180 during 2002, out of which 60 % or 2,788,070 went to salaries and compensations. During the fiscal year of 2002, the CRA spent KM 978,597 on material and service cost, which represents 24.5% of total expenditures. The total surplus presented in the account of assets and liabilities is KM 1,216,688. The CRA had 77 employees during the fiscal year of 2002.

The following tables represent the Cash flow statement and the Balance sheet for the fiscal 2002, and all figures are presented in KM (Bosnian Convertible Mark or KM):

\textsuperscript{55} Approximately KM 1.5 = US $1 according to the official exchange rate presented on the web page of the Central Bank of Bosnia and Herzegovina.
### Table 4.1. Cash flow statement for the fiscal 2002, 2003 and 2003 was created according to the Communications Regulatory Agency Annual Reports for the Years of 2002, 2003 and 2004

<table>
<thead>
<tr>
<th>POSITION</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>I FINANCIAL STATEMENT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 A. Income</td>
<td>5,375,382</td>
<td>7,242,391</td>
<td>7,623,839</td>
</tr>
<tr>
<td>2 Non–taxed income</td>
<td>5,350,981</td>
<td>6,989,924</td>
<td>7,623,839</td>
</tr>
<tr>
<td>3 Current supplies</td>
<td>24,401</td>
<td>252,466</td>
<td></td>
</tr>
<tr>
<td>4 TOTAL FINANCIAL ENCHASMENT</td>
<td>5,375,382</td>
<td>7,242,391</td>
<td>7,623,839</td>
</tr>
<tr>
<td>II FINANCIAL PAYMENTS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 A. Expenditures</td>
<td>4,646,180</td>
<td>4,278,276</td>
<td>5,085,321</td>
</tr>
<tr>
<td>6 Salaries and compensations for employees expenditures</td>
<td>2,788,070</td>
<td>2,741,528</td>
<td>3,056,005</td>
</tr>
<tr>
<td>7 Employer's contributions</td>
<td>323,023</td>
<td>320,875</td>
<td></td>
</tr>
<tr>
<td>8 Material and service cost</td>
<td>1,535,087</td>
<td>1,215,873</td>
<td>1,229,316</td>
</tr>
<tr>
<td>9 B. Capital expenditures</td>
<td>11,599</td>
<td>82,052</td>
<td>500,000</td>
</tr>
<tr>
<td>10 Fixed assets purchase</td>
<td>11,599</td>
<td>82,052</td>
<td>133,898</td>
</tr>
<tr>
<td>11 TOTAL FINANCIAL PAYMENTS</td>
<td>4,657,779</td>
<td>4,360,328</td>
<td>5,219,219</td>
</tr>
<tr>
<td>12 NET FINANCIAL ENCHASMENTS/PAYMENTS</td>
<td>717,603</td>
<td>2,882,063</td>
<td>2,404,620</td>
</tr>
<tr>
<td>13 CASH ACCOUNT AT THE BEGINNING OF YEAR</td>
<td>1,052,326</td>
<td>1,769,929</td>
<td>4,651,992</td>
</tr>
<tr>
<td>14 CASH ACCOUNT AT THE END OF YEAR</td>
<td>1,769,929</td>
<td>4,651,992</td>
<td>7,056,612</td>
</tr>
</tbody>
</table>

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56 Exchange rate US $1 : 1 KM on December 31, 2002 was 1.876636 KM for US $1; on December 31, 2003 was 1.565165 KM for US $1, and on December 31, 2004 was 1.437687 KM for US $1. The International Banking Code (ISO CODE) for the Convertible Marka is BAM. The numeric code is 977 (source: Central Bank of Bosnia and Herzegovina; [www.cbbh.ba](http://www.cbbh.ba))
<table>
<thead>
<tr>
<th>POSITION</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 I ASSET</td>
<td>2,496,639</td>
<td>6,082,543</td>
<td>8,644,157</td>
</tr>
<tr>
<td>2 A. Cash, short–term receivables, accruals and supplies</td>
<td>1,769,929</td>
<td>4,651,992</td>
<td>7,056,612</td>
</tr>
<tr>
<td>3 Financial assets and precious metals</td>
<td>694,409</td>
<td>1,360,675</td>
<td>1,549,155</td>
</tr>
<tr>
<td>4 Short–term receivables</td>
<td>32,301</td>
<td>69,876</td>
<td>38,390</td>
</tr>
<tr>
<td>5 Short–term accruals</td>
<td>764,252</td>
<td>637,121</td>
<td>686,489</td>
</tr>
<tr>
<td>6 B. Fixed assets</td>
<td>1,742,795</td>
<td>1,826,556</td>
<td>1,920,906</td>
</tr>
<tr>
<td>7 Fixed assets</td>
<td>978,543</td>
<td>1,189,434</td>
<td>1,234,417</td>
</tr>
<tr>
<td>8 Accumulated depreciation</td>
<td>764,252</td>
<td>637,121</td>
<td>686,489</td>
</tr>
<tr>
<td>9 Non–cancelled value of fixed assets</td>
<td>1,742,795</td>
<td>1,826,556</td>
<td>1,920,906</td>
</tr>
<tr>
<td>10 ASSETS TOTAL</td>
<td>3,260,891</td>
<td>6,719,664</td>
<td>9,330,646</td>
</tr>
<tr>
<td>11 II LIABILITY</td>
<td>331,797</td>
<td>563,068</td>
<td>1,145,766</td>
</tr>
<tr>
<td>12 A. Short–term liabilities and prepayments</td>
<td>31,113</td>
<td>59,922</td>
<td>79,337</td>
</tr>
<tr>
<td>13 Short–term current liabilities</td>
<td>583</td>
<td>99,880</td>
<td>12,655</td>
</tr>
<tr>
<td>14 Liabilities towards employees</td>
<td>300,101</td>
<td>403,266</td>
<td>1,053,774</td>
</tr>
<tr>
<td>15 Short–term prepayments</td>
<td>2,929,094</td>
<td>6,156,596</td>
<td>8,184,880</td>
</tr>
<tr>
<td>16 C. Assets sources</td>
<td>1,653,796</td>
<td>1,518,639</td>
<td>1,575,949</td>
</tr>
<tr>
<td>17 Assets sources</td>
<td>1,275,298</td>
<td>4,638,957</td>
<td>6,608,931</td>
</tr>
<tr>
<td>18 Unallocated income surplus over expenditures</td>
<td>3,260,891</td>
<td>6,719,664</td>
<td>9,330,646</td>
</tr>
</tbody>
</table>

Table 4.2. Balance sheet on December 31, 2002, 2003 and 2004 (according to the annual financial reports of the CRA).

The budget of the CRA grew over the last 3 years and in 2003 the incomes were 25% higher than in 2002. During 2004 the CRA incomes increased for an additional 6% in comparison with 2003. According to the Annual Report from 2004 the CRA is planning certain capital investments of KM 6 million in the close future. Unallocated income surplus over expenditures have accumulated in the last four fiscal years to KM 6.6 million, and enabled investment in new office building for the CRA, and equipment for monitoring stations in B&H. The Agency is planning to carry out the project of the establishment of monitoring stations, in three different phases: in the phase one, they are planning to build three monitoring stations in Sarajevo, Banja Luka and Mostar and to
employ additional staff; in phase two they are planning to acquire two specially equipped monitoring vehicles, and in the last phase, they are planning to build and equip four remote controlled monitoring stations without the staff (Godisnji izvjestaj regulatorne agencije za komunikacije za 2004. godinu, March, 2005). It is important to mention that the CRA did not receive any foreign donation in fiscal 2004, and in fiscal 2003 they received supply from abroad in amount of KM 16,070 (or approximately $11,000).

4.3. Jurisdictions of the Communications Regulatory Agency

All jurisdictions and responsibilities of the CRA were announced within the Law on Communications from Article 36 to Article 49. Since many of the CRA’s responsibilities were already mentioned and discussed in previous paragraphs, this section will just summarize the jurisdictions and responsibilities of the CRA. According to the Annual report from 2002, responsibilities of the Broadcast Division included the following activities:

- Issuing licenses to broadcasters;
- Setting regulations for broadcasting, advertising and programme content;
- Applying and enforcing applicable rules and proposing appropriate charges;
- Monitoring adherence to the Rules and Regulations;
- Acting to prevent illegal broadcast operations;
- Protecting copyrights;
- Handling and solving cases of alleged breaches of rules and regulations, often involving mediation. (Communications Regulatory Agency Annual Report for the Year of 2002, 2003, p. 3–4)
Other activities of the CRA in the segments of Telecommunications include regulation in the domains of fixed telephony, mobile telephony, Internet Service Providers (ISP) and block numbers. The Spectrum Division:

allocates, plans and coordinates the use of the radio spectrum; establishes
and maintain the frequency database, establishes the terms and conditions for
the use of a range of frequencies and especially those requiring international
coordination and monitors the use of radio frequencies with the aim of
avoiding interference between operators. (Communications Regulatory

Furthermore, the CRA through all three divisions participates in different
regional, European and international activities with the intention to improve
domestic telecommunications regulations and to increase the standards necessary for
integrative processes. The CRA has been a member of the European Platform of
Regulatory Agencies (EPRA) since May 2000. The official of the CRA stated that
their membership in the EPRA influences their activities and structure and it is
immensely important. “The EPRA is a platform where all problems that one
European country could have in creating and enforcing the regulatory policy are
discussed. It is very important for us, because in exchanging our experiences we are
gradually establishing a consistent regulatory framework at the European level”
(Odobasic, personal email correspondence, Jun 2 2005).

According to Odobasic the ten most popular EPRA topics are:

- Advertising issues discussed from various perspectives (classic advertising,
  sponsorship, teleshopping and surreptitious advertising),
- Protection of minors (consecutively present topic at the last 7 annual EPRA sessions. Issues discussed within the topic are: presentation of minors, violence, portrayal of sex on TV, rating systems and protection of children etc).

- Jurisdiction (harmonization of the jurisdiction of the European countries in accordance to the Directive Television without Frontiers\(^{57}\), “presence of the non–EU satellite channels broadcasting programs inciting hatred” [EPRA Discussion Topics, 2005]),

- Convergence (interactive services, near Video on Demand (VOD) services, online services),

- Regulating of Public Broadcasting (the pros and cons of the regulation of PSB through regulatory authorities; overviews of PSB regulatory structures and mechanisms; the issue of program performance; the PSB mission in the digital area [EPRA Discussion Topics, 2005]),

- Digital Terrestrial Television (DTT) (“awarding of the digital terrestrial licenses and the issue of access in the digital TV environment” [EPRA Discussion Topics, 2005]),

- Media ownership and concentration,

- Monitoring issues (mainly about the paid political advertising),

- Events of major importance for society. (Odobasic, personal email correspondence, Jun 2, 2005)

\(^{57}\) The Directive Television without Frontiers will be examined in the Chapter VII.
Other relevant topics discussed at the EPRA sessions are: media development in acceding, candidates and transition countries; media and disability: access and representation; broadcast inciting to hatred; privacy; human dignity and radio broadcasting (EPRA Discussion Topics, 2005). The importance of the participation of the CRA in associations like the EPRA will be further discussed in Chapter VII – Telecommunications Regulations and European Integrations.

During the year 2004, the CRA began 10 years licenses for commercial radio and TV stations, and two years for public stations. The new licenses replace the licenses issued in Phase Two. In 2004, 95 licenses were awarded – 22 for TV and 73 for radio stations. Furthermore, 10 public radio and TV stations fulfilled the request of the CRA from September 2003 and removed the exclusive ethno–national prefix from the name of the stations, showing the will to serve the public of B&H. The CRA also continued to work on the establishment of more precise and strict rules about the restrictions in broadcasting of inappropriate content for children and the responsibilities for their protection (Godisnji izvjestaj regulatorne agencije za komunikacije za 2004. godinu, March, 2005, p. 6–9).

In addition, in 2003 the Director General of the CRA appointed an expert group for identification of needs for introducing digital TV technology in B&H, according to the European practice and obligations. The CRA also continued with the strict monitoring of media use during the elections (Godisnji izvjestaj regulatorne agencije za komunikacije za 2004. godinu, March, 2005, p. 6–9). The CRA has made significant progress from the time of its establishment to the present; at the early beginning, it was an internationally supervised and financed agency.
whose prior goal was to solve chaotic situations in broadcasting and telecommunications and to establish the system in an ethnically divided country. Currently, the CRA is dealing with more sophisticated issues, on an equal level with other European regulatory agencies, and serves the interests of the B&H public.
CHAPTER 5
Effects of the CRA on Liberalization of the Electronic Media Market and Short Analysis of the Media Market in Bosnia and Herzegovina

This chapter will examine the role of the CRA in the liberalization of the media market during its transition. In spite of resistance by ethnocentric political parties and their attempts to preserve their influence over the B&H media environment, the CRA succeeded in continuing to build democratic standards in media regulations. Two main aspects of liberalization in the B&H electronic media market will be examined within this chapter. The first part will provide a brief overview of the economic environment and the second will introduce the current media market in B&H. The main assumption behind the development of the CRA was that establishing conditions for a fair and competitive media market required moving the media regulatory body out of the range of political influences. However, the CRA could not by itself create a competitive market in one of the most depressed economic environments in Europe. Nevertheless, the Agency indeed assured conditions for a fair media market environment and established the principle rules of the game.

The “short spring” of the B&H economy transition started in 1989 (and ended in 1991) when the new legislation allowing establishment of private companies was passed in the former Yugoslavia. The war against B&H from 1992–1995, with the radicalization of ethnocentric tendencies, stopped the process of economic transition and the whole concept of the country, which relied on limited political autonomy and significant economic dependency on other regions of the former federation, was destroyed.
Capacities that were not destroyed physically suffered from long stagnation and became technologically obsolete and ineffective after the end of war.

In every aspect of life the consequences of the war were disastrous. According to a study by the International Monetary Fund (IMF), during the war approximately 250,000 people were killed, and almost half of the population of 4.4 million people were internally displaced or refugees abroad. The war caused irreparable damage to the local economy and severed the business connections and reforms reached at the beginning of the transition. According to the IMF research, the:

- direct material war damage is estimated at between 50 and 60 billion US$, of which about 20 billion US$ is on industrial capacities. Adding to this the loss of GDP from 1992 to date, the overall damage amounts to more than 100 billion US$. From the status of development country [within the former SFRY] that BiH had in European terms, after the disastrous war it became a poor country. (Bosnia and Herzegovina: Poverty Reduction Strategy Paper — Mid–Term Development Strategy, 2004, p. 34)

In the years following the DPA, the primary obstacles in the way of implementing the economic reforms were: slow renewal of domestic production; complicated administrative apparatus and procedures; unsuccessful process of privatization; lack of public investment; deficit in the export–import ratio ($1 export : $4 import); low business ethics and the existence of a so–called “no–payer culture”; lack of foreign investments; and high internal and external debt. Bosnia is still highly dependent on foreign aid and credit, and irrationally organized in the matter of local administration for a country in transition. According to the IMF analysis, public expenditures are close to 60% of the
GDP, which exceeds the standard of the EU by more than double and does not provide any chance for stable development of the country.

On the other hand, the presence of obstructive local ethnocentric lobbies disabled any rationalization of an extremely complicated administrative structure and reduction of the public expenditures. The official rate of unemployment is currently the highest in Europe and it exceeds 41% at the national level. According to the estimations of the IMF and the World Bank, the “gray economy” sector represents an additional obstacle for economic reforms, because the real unemployment rate is 16.7% since the rest of the officially unemployed workers are unregistered (Bosnia and Herzegovina: Poverty Reduction Strategy Paper — Mid–Term Development Strategy, 2004, p. 35).

Another significant problem and obstacle in the way of B&H’s progress towards economic and market reforms is widespread corruption. Jovic’s report on corruption, published within the Global Corruption Report of the Transparency International detailed the existence of parallel systems, semi–legal or illegal ways of gaining access to services or products in South East Europe in 2003. The corruption reached almost all aspects of social life and the main anti–corruption efforts were those initiated by the international organizations in the region (Jovic, 2003, p. 190). According to a study conducted by the World Bank and the group of local economy experts, “18 percent of costs incurred by companies go to pay bribes; and in the process of doing business, managers spend one tenth of their managing time communicating with government representatives” (Bosnia and Herzegovina: Poverty Reduction Strategy Paper — Mid–Term Development Strategy, 2004, p. 62).
The following example represents the corruption at the highest level of the state administration, and provides evidence that the local B&H political administration is not ready to take full responsibility for the country without the foreign authority embodied in the OHR. In March 2005, the Croatian member of the B&H Presidency, Dragan Covic, was removed from the highest political office in the country by a decision of the High Representative, Paddy Ashdown (Ashdown, March 29, 2005, p. 3). The HR found the reasons for Covic’s removal from the B&H Presidential Office in the indictment against Dragan Covic for criminal offences. Because the Presidency serves as the public face of B&H to the world, the High Representative decided to bar Covic from holding any ministerial office or any executive position at any level in B&H. Specifically, Covic was accused of giving tax and custom exemptions in favor of the local meat industry “Lijanovici,” during his mandate as a finance minister and deputy prime minister in the Federation of B&H. A former member of the Presidency, Covic and his associates are charged with forgery of official documents, abuse of office and tax evasion that caused damages to the state budget estimated at 47 million KM (approximately $32.5 million). In addition, Covic, together with “Lijanovic” owners and Zdravko Lucic, a professor on the Sarajevo Law Faculty, are charged with bribing Mato Tadic, the Chairman of the Constitutional Court, with 200,000 KM (Milovac, 2005, p. 1–2).

Although B&H is considered a medium indebted country in terms of external indebtedness, internal debt represents the most severe threat to the macroeconomic stability of the country. According to the study of the IMF, the total internal public debt has to be reduced to about 50% of the GDP by 2007 in order to improve the creditworthiness of B&H on the international money market. “Internal public debt in
B&H in 2003 rose to about 67 percent of GDP. In 2002, the total external debt amounted to KM 4.05 billion” (Bosnia and Herzegovina: Poverty Reduction Strategy Paper — Mid–Term Development Strategy, p. 52, 2004).

In general, the B&H economic environment lacks competitiveness. A study conducted by the faculty at the School of Economics–University of Sarajevo based on the World Economic Forum Methodology showed that the level of competitiveness of the B&H economy is satisfactory “in 18 categories, while in the remaining 98 it shows low competitiveness in the global environment.” The categories that were ranked are: “openness of the economy, efficiency of government institutions, the finance sector, infrastructure, the labor market, technological development, and others” (Bosnia and Herzegovina: Poverty Reduction Strategy Paper — Mid–Term Development Strategy, 2004, p. 64). The B&H economy also lacks a strategy to attract foreign investments and a strategy to support small and medium size enterprises.

According to a Gallup survey conducted in 2003, 69% of Bosnians believe that the country is less prosperous now than it was 10 years ago, and 66% of them state that they do not live as well as they did 10 years ago. 73% of Bosnians rate their economic position as poor, and just 53% believe that the economic position of the country will be better in the future (executive Summary, 2004, p. 7). The shadow of poor economic performance produces anxiety in the country, which also has a negative effect on the media environment. The average monthly salary in FB&H in 2005 amounts to KM 544 (approximately $ 360) and the minimal living expenditures for an average family amounts to KM 453 or 83% of their wages (Osnovni pokazatelji, 2005).
In the media market segment of economy, the activities oriented to restructuring public broadcasting were stopped during the long-term licensing phase by the decision of the HR. According to the CRA catalogue, 16 public TV and 62 public radio stations still exist in B&H. The subsidizing of those stations represents a serious expenditure for the Cantonal and the communal taxpayers. According to the IMF study (Bosnia and Herzegovina: Poverty Reduction Strategy Paper – Mid-Term Development Strategy, 2004), the priority in restructuring the B&H media market for local institutions should be the creation of the list of media companies to be privatized, preparation of the companies, choosing the method of privatization, and finally in implementing the privatization transactions. The IMF’s study suggests one possible method of privatization:

Concerning the preparation and choice of the privatization method, in the case of other companies (regional and local RTV stations) one has to take into account that all outlets require some investment capital and additional professional skills. Because of this, the best option would be to choose the strategic investor, because it is not very likely that the financial investors will be interested in investing in a small, underdeveloped and fragmented market that can not yield profits and liquidity of shares over a short term. One possible option for privatization that deserves some consideration is the involvement of managers and employees in the privatization of those media outlets [the MEBO\textsuperscript{58} method]. (footnote added)

\textsuperscript{58} Management-Employee Buyout (MEBO), “Transfer of shares to employees, through giveaways or sales at low prices, has been a common privatization method in transition economies due to the relative ease of administrative and political implementation. The method is controversial, however, and frequently alleged to be ill-suited to the restructuring demands of the transition. On the one hand, insider privatization may improve work incentives, company loyalty, and support for restructuring. If ownership is widely dispersed among employees, it may also facilitate takeovers by outsiders” (Earle, 2002, p. 6-7).
Currently “23 agencies for advertising and marketing communications” exist in the B&H market and the “overall annual turnover of the sector is US$15–20 million” (Cicic and Brkic, 2003, p. 258). According to the same authors, the arrival of three international agencies to B&H, McCann Erickson, S.V.–RSA and 2AM–FCB, has moved the whole advertising market to a transitional stage. Furthermore, B&H represents one of the smallest markets in Europe with an “overall advertising expenditure of approximately US$15 million. That is only US$4 per capita, which is approximately one-twentieth of the average global expenditure and much less than the Western European expenditure of US$180 per capita” (Cicic and Brkic, p. 259, 2003). The authors estimate that the B&H media earn an additional US$3–3.5 million in advertising money through direct contact with advertisers. They also provide a distribution of the advertising money across different media. According to Cicic and Brkic, electronic media in B&H accounts for 73% ($11 million), 20% is spent on outdoor media, mainly billboards (approximately $3 million), and 7% on print media ($1.05 million). Television represents the most preferred way of advertising with the share of 65%. Among the leading 13 advertisers during the period 1999–2001, only two B&H companies appeared among them by the amount of money spent, since the other companies are global corporations from the USA, Germany, France, Italy, Sweden, and companies from Slovenia and Croatia. According to Cicic and Brkic (2003):

A specific problem with local clients in Bosnia–Herzegovina is their instability: many still teeter on the edge of bankruptcy or have serious financial problems.
The mortality rate of local companies is high and that is a potential threat for their creditors, among them advertising agencies. An interesting case is *Fabrika Sarajevo*\(^{59}\), which managed to receive some payment from a bankrupt client via a court order, but in a type of barter arrangement it received shampoo production machines. (footnote added) (p. 264)

Until 2003, the commercial media sector was still developing in B&H in the matter of coverage and production as well, and the leading advertising media was RTV FB&H with an advertising money share of 31% (Cicic and Brkic, 2003, p. 266).

The first established and leading audience research agency in B&H is Mareco Index Bosnia (MIB) (MIB/about us, no date, p. 1–2). It was set up in 1996 as a joint venture by 3D System from the USA, Austrian Gallup and the British Balkan Social Survey, a British research agency located in Sophia. The MIB is recognized by Gallup International, World Association of Public Opinion (WAPOR), European Society for Opinion and Marketing Research (ESOMAR) and the American Marketing Association (AMA). The MIB is a member of the Taylor Nelsen Sofres Group. The agency offers ad hoc and continuous surveys and media market monitoring, MIB annual publication, radio and TV audience measurement, TV ad monitoring etc. The sample size is 800 respondents distributed across B&H representatively in 11 markets and is divided into 5 age groups: 12–17, 18–24, 25–35, 36–49, and 50+. The method used in audience research is Daily Diary Panel, with 15–minute time slots, except the time between 7 p.m. and 10 p.m. which is divided into 5–minute slots. The MIB conducts surveys in eight time periods: February, March, April, May, September, October, November, and December.

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\(^{59}\) Local advertising agency
The price of the full package with all 8 time periods including graphic presentations of results from all 11 markets is KM 24,000 (approximately $16,000) (Mareco Index Bosnia, 2003, p. 3).

According to the MIB monthly report for March 2005, the advertising shares changed recently in favor of commercial media (see Appendix L). Commercial stations were always more efficient and more successful in the local markets and most of them sell their time for direct marketing activities. According to the MIB annual report, the total annual income of the B&H media is much higher than it was presented in the Cicic and Brkic research based on data from 2001. The most recent annual report, which is just partly available for the general public online, reports KM 189.64 million ($ 128,12 million) for TV ads, KM 4.593 million ($ 3.103 million) for ads in newspapers and magazines (MIB, March 2005). Jusic (2003) explains:

Public broadcasters are now allowed to broadcast a maximum of six minutes of advertising per hour (eight minutes per hour during the prime–time period). Some representatives of the commercial TV sector argue that these limits, although in accordance with the European Convention of Transfrontier Television, may be problematic considering oversized TV sector and limited advertising market. This seriously restricts the development of both commercial and public TV and the radio sector. (p. 6)

According to Taylor and Napoli, Bosnia represents one of the most media saturated markets in the world. However, one of the weakest European economies cannot support fast development of the commercial media sector (Taylor and Napoli, 2003, p. 491). One of the most important achievements of the CRA is potentially that the “media
monopoly of politically motivated media is over and, for the first time ever, Bosnians recognize that they have a choice when it comes to news and information.” However, “there are far too many outlets and too few advertising dollars to support all of the new Bosnian media” (Taylor and Napoli, 2003, p. 491). According to Cicic and Brkic, continued development of the B&H media market will require the accession of Bosnia and Herzegovina to the World Trade Organization (WTO) and significant development and growth of the overall economy (Cicic and Brkic, 2003, p. 270).

Before the war of 1992, the state RTV service had 2,420 employees and approximately 500,000 regular subscribers. Income from the monthly subscription fees was approximately 7.5 million KM ($ 5.06 million), and the subscription amount per household was almost triple in comparison with 2005 (KM 15 before 1992, and KM 6 in 2005). Currently, PBS has 930 employees, RTV FB&H has approximately 400 and RT RS has 450 employees, approximately 1800 in total. Just for the comparison, public service broadcasting in neighboring Serbia has 6,800 employees, in Croatia 3,200 and in Slovenia 2,300 (Omerovic, 2003, p. 32). Public services in B&H spend 56% of their total revenues on salaries. An analysis of optimal organization of the public services in B&H, made by the BBC Consulting Team, has shown a surplus of 300 employees according to current incomes and production capabilities. The Director General of the PBS B&H, Drago Maric, says that it would be easy to fire 300 people if he were a manager of the public broadcaster in England, where they have public welfare and where loss of job represents just the loss of social status and not support for existence. Since B&H is not a social country any more and just 1% of the GDP goes to social welfare, Maric says that if he fires the surplus employees the same day he would have a crowd of 1,000 relatives of
those people in front of the RTV building because they do not have any job alternative. In addition, Maric says that “after all those experts’ analyses and even if we would have a social welfare program for those people… I do not think that it is possible in such a radical form, to come one day and fire… It is not that I do not have the heart to fire them, but it is simply impracticable” (Omerovic, 2003, p. 33).

Another serious obstacle in funding public services is the extremely low collection rates of fee payments. As was mentioned before, subscription fees before the war of 1992–1995 were approximately KM 15 a month (approximately $10) per household and there was a high level of payment collection. Currently, the subscription fees are a little over $4 a month and the level of payment collection is extremely low. According to Babic the payment collection in June 2002 ranged from an average of 40% in FB&H to 22% in RS (Babic, p. 4, 2002). PBS is trying to find the best way to collect the fees, and they have tried several different methods. The first phase with bill collectors was unsuccessful. The second one, when the fees were added to electricity bills was expected to solve previous problems, but people were paying just the amount of the electric bill. The new idea is to collect the money with the telephone bills because of the high payment rate and the number of 951,526 telephone subscribers in B&H in 2004 (Godisnji izvjestaj regulatorne agencije za komunikacije za 2004. godinu, 2004, p. 12).

However, during 2003, just 35% of households in FB&H, and 22% in RS paid subscription fees. The Director General of the PBS emphasizes that Slovenian public service had an income of more than 80 million Euros just from subscription fees. The subscription income of the PBS B&H was 9.2 million Euros in 2004, although the fees defined in B&H were the lowest in the region. According to the Communications Law,
the CRA determines the subscription fees; 42% of money collected belongs to the PBS and the rest of the money goes to Entities’ public services. One of the requirements for B&H in further European integration represents steady budgeting of the public broadcast service based on subscription fee income (Omerovic, 2003, p. 35–36).

The B&H television sector includes a cable market believed to number up to 120,000 households (Dziadul, 2005, p. 1), and the recent CRA public catalogue of cable TV distributors contains 40 registered enterprises in B&H. However, 40 providers operating in 29 towns, in a country of 4.4 million people, proves that the cable industry is still in its infancy. The predominant role of cable operators is providing the most popular local TV channels along with TV channels from Croatia, Serbia, Montenegro, Italy, Germany, Spain, France, world–popular American TV programs and programs with adult content. In order to receive a cable operator license, a company must provide a copyright contract for every channel listed (Javni Registar Korisnika Dozvole za Pruzanje Usluge Kablovskie Distribucije RTV Programa, 2005). In comparison with neighboring Croatia, the B&H media market is far behind in attracting foreign investors. During 2004, Croatia saw the launch of two national commercial stations, MTV Adria and RTL Croatia, and boasts a growing cable market, composed of around 200,000 households, in which the largest operator, DCM, plans to shortly introduce such additional services as pay–per–view and video–on–demand (Dziadul, 2005, p. 1). The capabilities of B&H cable providers are still insufficient for providing sophisticated services such as pay–per–view and video–on–demand.

According to the recent CRA public catalogue, there are 151 FM radio stations in B&H: 80 private, 66 public – plus an additional five AM stations, two of which are
private and three public (Radio Stations, 2005). Almost 46% of radio stations in B&H are financially dependent on local governments. Under the pressure of local advertisers, serious journalism does not exist in the commercial radio sector. In addition, there is no commercial radio station or commercial radio network that covers the complete B&H territory. Radio stations in B&H mainly disseminate local information, and the program content is eclectic. Just a few have a certain music format. Although radio as a medium is very important in B&H, the share of advertising money is not significant. Some 80 to 84% of the total population listens to radio programs for at least 3 – 4 hours a week (Jusic, 2004, p. 73). However, radio ad revenue share is only 8%. According to the MIB data, 75.7% of the radio audience listens to local stations, 7.5% to national public radio, 2.9% to Radio RS and 2% to Radio FB&H. (Radio and Print, 2004)

In addition, consolidation is expected in the B&H media market as a result of privatization of numerous public radio and TV stations on the communal and cantonal level. Furthermore, the B&H market is not powerful enough to support the existence of numerous broadcasters and it is expected that some radio TV stations will not be able to withstand the competition. Creation of more radio and TV clusters, as in the TV PINK B&H example can be expected. The most significant current international investment into the B&H media market was the transfer of four TV station licenses to Serbian–based TV Pink, and the establishment of TV PINK B&H. Another international investment in the B&H media is the part ownership of the privatized TV OBN by Croatian TV NOVA. The presence and strong influence of foreign media (Serbian and Croatian) in the B&H market represents a curiosity which deserves serious study. However, just as an illustration, besides 7 B&H daily newspapers, one can find 13 daily newspapers from Serbia and Croatia on B&H newsstands.
In addition to 46 weekly and monthly magazines from B&H, one can find 61 magazines from Serbia and Croatia in B&H bookstores and on newsstands (Jusic, 2004, p. 72).

Since less donor money is available for independent media in B&H since the Kosovo intervention in 1999, advertising pressure represents the most efficient tool for economic discouragement of rare independent media. The recent example of the independent political magazine B&H Dani (B&H Days) symbolizes pressure aimed at silencing the media from criticizing the coupling of religious and political institutions in B&H. Following a photo-montage published in this magazine, the head of the Islamic Religious Community in B&H, Reis Mustafa Effendi Ceric, resorted to pressure in this answer:

*Magazine Dani was again fiercely attacked over a graphically and artistically distasteful front page showing Reis Ceric, head of the Islamic Community of BiH, indecently dressed and using a telephone–sex line. A letter was in circulation, signed by Reis Ceric, which by its content and tone was actually a *fatwa* prohibiting advertising in Dani and in other media with similar editorial concepts. (Babic, 2005, p. 10)*

Furthermore, xenophobic Bosniak political representatives are putting pressure on TV FB&H, and particularly on the political magazine “60 Minutes,” which usually covers controversial issues. A paradox of that conflict culminated when certain political representatives, “sent an open call for refusal to pay the legally prescribed broadcast tax, from the parliament speaking platform” (Babic, 2005, p. 11). According to Babic (2005), some “right wing Bosniak media, such as *Dnevni Avaz*, *Ljiljan* and *Valter*, undividedly joined in persuading the audience to boycott the legally prescribed broadcast tax” (p. 11).
Other problems have been publicized by members of the commercial TV network Mreza+, which assembles 5 TV stations and 5 affiliates. Specifically, the members of the Mreza+ are complaining about significant problems that create unfair competition in the B&H market. The first one is “the problem of signal spillover from neighboring countries,” Croatia and Serbia (Babic, 2005, p. 12). There is a constant tendency by Serbia and Croatia of strengthening transmitters’ potential close to the border line with Bosnia. Another problem is mentioned in Mreza+’s complaints:

the alleged grave violation of CRA rules with regard to issuance of long–term licenses. This is a clear allusion to FTV, which has considerably reduced its news, political, documentary and cultural programming in favor of entertaining, sub–cultural content, such as karaoke and reality shows although, as a public broadcaster, it has a national frequency and is able to broadcast in the entire territory of B&H (Babic, 2005, p. 12).

According to the same author, the International Advertising Association’s (IAA) branch in B&H recently made an initiative to create a self–regulation body, taking the Press Council as a model. The IAA’s council should establish the norms and customs for ethical advertising business among media and react to violations in order to protect fair competition. Babic emphasizes that such a model could even alleviate economic pressure on the B&H media. However, until this pressure is alleviated and subscription revenue is improved, the goals of the CRA and other institutions which enforce the laws, can only be partially achieved at best.
CHAPTER 6
Content Regulation and Sanctions for Broadcasters

6.1. Rules and Codes of the Communications Regulatory Agency

Within this section the author will analyze the following issues:

1. Law on Communications of Bosnia and Herzegovina
2. The Broadcasting Code of Practice and the role of the CRA in the elimination of hate language from the B&H broadcast media
3. Rules for the broadcast license fees
4. Merit based competitive process for the awarding of long–term licenses
5. General terms and conditions of licenses
6. Rules on media concentration and cross ownership
7. Public broadcast regulations
8. Contributions of the CRA in the domain of copyrights
9. The CRA’s reports on breaches of laws and regulations and the most recent decisions of the CRA in preventing the language of hate, deceptive reporting, and protecting decency and civility.

Finally, a critical analysis of the voluminous CRA research on the satisfaction of the B&H broadcasters with the work of the CRA will be provided. Although those reports represent a secondary source, the author of this study did not have the option to do interviews with a representative sample of B&H broadcasters, which would satisfy the elementary standards of research.
6.1.1. Law on Communications of Bosnia and Herzegovina

Under his authority as the final interpreter of the DPA, the current High Representative in B&H, Paddy Ashdown, imposed the Law on Communications on October 21, 2002. The HR imposed the law after the failure of the national Parliamentary Assembly and the Council of Ministers to react on a draft provided 18 months prior to the imposition. Finally, the HR decided to implement the legislation which would lead to the “development of State–level regulatory mechanisms for telecommunications and media, and ensure that there is no duplicative or conflicting regulatory competencies at any level of government” (Ashdown, Oct, 2002, p. 1). Another reason for the HR to impose the Communications Law at the national level was in ”drawing the parties’ attention to the need to foster functional and democratically accountable common institutions” (Ashdown, Oct 21, 2002, p. 1). Furthermore, the HR rationalizes the imposition of the law through benefits from the combining of the competencies of the IMC and the TRA and establishment of the CRA; he also recognized the benefits of competition in telecommunications for the further development of the country, and the fact that future foreign investments in the B&H economy will depend on the development of the telecommunications sector.

The Communication Law (CL) replaced the Telecommunications Law of B&H, but it confirmed all decisions and rules made prior by the IMC, TRA and CRA. Furthermore, the CL regulates all aspects of electronic communications (telecommunications, radio, broadcasters and cable TV and other associated services and facilities). The CL also defines the role and jurisdictions of the CRA as a national regulatory agency as including security and defense communication capacities (Ashdown,
According to the CL the Council of Ministers is responsible for developing and adopting policy, and representation of B&H in international communication matters. The CRA is responsible for the broadcasting and telecommunications network and services including licensing, pricing, allocation of the frequency spectrum and implementation of the international telecommunication agreements (Ashdown, Oct 21, 2002, p. 4).

The CL emphasizes that regulatory principles in broadcasting shall include the protection of “freedom of expression and diversity of opinion while respecting generally accepted standards of decency, non-discrimination, fairness, accuracy, and impartiality” (Ashdown, Oct 21, 2002, p. 8). Moreover, the CL affirms the need for development of viable commercial and public broadcast sectors, and contributing to the strengthening of democratic and commercial principles by separating the media from political control and manipulation. This law also indicates the importance of appropriate professional standards for holders of long-term broadcast licenses, and the regulation of broadcast advertising in accordance with European practice (Ashdown, Oct 21, 2002, p. 9).

Moreover, the CL provides the enabling legislation for the CRA: its definition, duties, procedures in making rules of the agency, the composition and the role of the Council of the CRA, role of the Director General, decision-making by the Council of the CRA and dismissal of the members of the Council of the CRA and the Director General. It is also includes provisions with regard to the CRA’s staff, defines sources for financing of the CRA, and procedural provisions for complaints, enforcement measures and appeals. (Ashdown, Oct 21, 2002, p. 27–35).
6.1.2. Broadcasting Code of Practice and Elimination of Hate Language From the Bosnia and Herzegovina Broadcast Media Environment

According to Article 37 and Article 39 of the B&H Communications Law, the Broadcasting Code of Practice sets out the rules and standards for program content that apply to television and radio broadcast stations and their staff in B&H. The Broadcasting Code of Practice (BCP) is probably the most important operational document in every day use among CRA officials, broadcasters, researchers, other media professionals and even the audience. The Preamble emphasizes the priorities of the Code, specifically the “representation of and portrayal of violence and ethnic, national or religious intolerance and violence, as the prevention of such activity is vital to the well being of the people of Bosnia and Herzegovina” (Broadcasting Code of Practice, 2004, p. 1).

Furthermore the Code “conforms with the right to freedom of expression as envisaged by the European Convention on Human Rights” but emphasizes the responsibility of broadcasters for content transmitted. The elimination of hate language represents the most important step towards the normalization of the media environment, which should set higher standards within all other practices. The use of hate language did not disappear as the standards were set. However, through the continuous engagement of the public and the supervision of the CRA it has almost vanished from the B&H media. In this section, the author will provide a brief overview of the BCP. The General program standards have the following requirements:

Programs shall meet generally accepted community standards of civility and respect for the ethnic, cultural and religious diversity of Bosnia and Herzegovina. Broadcasters shall not broadcast any material which by its content or tone:
carries a clear and immediate risk of inciting ethnic or religious hatred among the communities of Bosnia and Herzegovina, or which by any reasonable judgment would incite to violence, disorder or rioting, or which could encourage crime or criminal activities. (2) carries a clear and immediate risk of causing public harm: such harm being defined as death, injury, damage to property or other violence, or the diversion of police, medical services or other forces of public order from their normal duties. (Broadcasting Code of Practice, 2004, p. 1)

The Code includes the following topics:

- General program standards and requirements;
- Decency and civility;
- Program time restrictions and the “program watershed” from 10 PM to 6 AM;
- Fair and impartial programming;
- Religious programs;
- Paid political advertisements;
- Right to reply;
- Access to information and freedom to publish;
- Accuracy and balance;
- Provocative language;
- Compliance with the Code, program recordings and sanctions; and
- Advertising programs. (Broadcasting Code of Practice, 2004)

The article on decency and civility forbids the use of “language that could incite violence, disorder or hatred” and emphasizes “general community standards.” In this article, the CRA distinguishes the “interest and sensitivities of children” and the need to
protect that population from gratuitous programs. According to the BCP, the journalists’ priority in the case of reporting the effects of natural disasters, accidents or human violence should be for “the needs of truth,” not sensationalism and invasion of privacy. Programs that contain “the strongest acceptable sexual material, violence or themes [such as child abuse or the use of drugs] treated in a way likely to be harmful to children can be broadcast only in the period from 22:00 to 06:00” (Broadcasting Code of Practice, 2004, p. 2). The category named “program watershed” in the BCP is the equivalent of the “safe harbor” for indecent programming in the U.S.

Furthermore the Code prescribes accuracy and fair reporting on religious matters. Because B&H is a country where people of different religious backgrounds are living next to each other, and have been building communities and neighborhoods for centuries, it is very important to prevent any media activity which would lead to denigration of any religion or belief. The BCP also requires accurate, fair and impartial reporting and condemns partiality in promotion or exclusion of opposing parties, groups or individuals. The code also defines a strict distinction of commentary from news content. The main differentia specifica of the Bosnian BCP was the prohibition of all paid political advertisements; however, this was changed recently. Media industries in other countries, especially commercial media segments in the countries with developed democratic standards, rely upon revenues from political campaigns. In B&H, equal access to media during electoral campaigns is regulated based on special documents contained in the Rulebook, adopted in amended form on June 28, 2004. The Rulebook determines and defines the obligations of electronic media:
Electronic media in B&H shall ensure that information they present in the election period is correct, complete, honest, fair and impartial. Media shall not get involved in distortion, cover–up, falsification, misinterpretation and censorship, including systematic omission of information that would influence the public perception of a certain subject or event. Media shall not use any materials that in its content or tone carry clear and immediate threat of incitement of ethnic or religious hatred among communities in B&H, or which could, under reasonable judgment, encourage violence or other kind of disorders that would hinder the election process. Electronic media shall free of charge broadcast statements and information by the Election Commission of Bosnia and Herzegovina in order to have the voters informed on all aspects of the election process under regulations set by the Election Commission of BiH. (as cited in Sehic, 2004)

Furthermore, the Rulebook provides a list of definitions in order to clarify the terms such as: election period, political subject, political clip, electronic media, public broadcast media and private broadcast media. During the election period of 60 days, the “electronic media should ensure equal, fair, and impartial presentation of political subjects” (as cited in Sehic, 2004). Since the “equal presentation” means equal time in coverage of election activities, the media in B&H have very complex tasks in providing of equal opportunity to dozens of political parties in the B&H environment. In addition, all broadcast media are obliged to provide “free broadcast time to political subjects for direct addressing during the period of 30 days” prior to an election (as cited in Sehic, 2004). Paid political advertising in electronic media is now allowed sixty days prior to the election day. Further guidelines are as follows:
Public electronic media shall, under equal terms, allow political subjects that participate in the elections, paid political advertising up to three (3) minutes weekly. Private electronic media shall, under equal terms, allow political subjects that participate in the elections, paid political advertising up to five (5) minutes weekly. Electronic media shall ensure that paid political advertisements are clearly separated from the rest of the program and are not included in the limit of allowed advertising time as prescribed by the Communications Regulatory Agency of B&H. Prices of political advertisement must not exceed the existing price list of electronic media. Prices of political advertisements must be the same for all political subjects, and price lists must be submitted to the CRA for review fifteen (15) days prior to the election period. (as cited in Sehic, 2004)

According to the Rulebook, each political party and independent candidates submit a request and a copy of the clip to identified media. The promotional clips cannot be aired 15 minutes before and after the news, they cannot be changed by the media, and they should be aired according to the schedule of the media. The CRA has suggested a system of lottery for determination of the schedule because of the large number of participants in elections. The Rulebook also regulates when a political clip shall not be broadcast. Those are situations when the clip by the content and tone:

(1) carries clear and immediate risk of incitement of ethnic or religious hatred among communities in Bosnia and Herzegovina, or under any reasonable judgment could encourage violence, disorder or riots or could incite criminal activities.
(2) carries clear and immediate risk of inflicting public damage: wherein such public damage is defined as death, injury, property damage or any other kind of violence, or prevention of police activities, medical services or activities of other services for maintenance of public peace and order, from performing their usual duties. (as cited in Sehic, 2004)

The Rulebook is applied only during the period of 60 days prior to elections. In addition, it regulates the practical implementation of the rules, requires a period of election silence 72 hours before opening of polling stations, and includes sanction procedures.

According to the Law on Decriminalization of Libel and Defamation, “journalists have an ethical obligation to protect their sources of information”, but a broadcaster must never air any false or deceptive material (Westendorp, 1999). According to the BCP, broadcasters must provide anyone refuting a claim the right and the appropriate amount of time in which to reply to false or deceptive materials that place the person in an unfavorable position. Free access to information and freedom to publish were introduced to the Bosnian legal system as a result of international intervention. This happened in Dayton in 1995, and brought two key international legal instruments straight into the B&H Constitution and made them supreme over all other laws passed in B&H: The European Convention for the Protection of Human Rights (ECPHR), and The Universal Declaration of Human Rights (UNDHR).

The ECPHR in Article X provides freedom to access information and to broadcast, but in rigid political environments it was necessary to impose further the Law on Freedom of Information (to make available public domain documents), and the Law on
Decriminalization of Libel and Defamation (Westendorp, 1999). However liberal, the ECPHR had certain restrictions in spheres of freedom of accessing information and broadcasting. The following quotes the ECPHR on situations when the freedom of expression can be subject to restrictions in a democratic society:

in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. (Broadcasting Code of Practice, 2004, p. 2).

Moreover, the CRA requires complete recording and 14 day storage of broadcast material. However the time frame can be extended if a “request for the right to reply, demand for correction or request for review by CRA is received within 14 days after the broadcast” (Broadcasting Code of Practice, 2004, p. 2). In such cases the recording has to be preserved until the issue is resolved.

In the case of a BCP violation, the CRA may apply one or more of the following sanctions:

I. the requirement to publish an apology,

II. the issuance of warnings,

III. the making of orders,

IV. the imposition of financial penalties,

V. the suspension of licence,

VI. prohibit the entry to premises,

VII. seizure of equipment,
VIII. the shutdown of operations, or

IX. the termination of license” (Broadcasting Code of Practice, 2004, p. 2).

The code contains a provision for amendments, which states that the BCP will be reviewed and adopted according to changing circumstances. The BCP was amended several times, and the last change was made in March 2004.

6.1.3. Rules for the Broadcast License Fees

At the end of 1999, the IMC established a set of rules for the broadcast license fees, and subsequently amended it twice. Following the European standards, the IMC treated the spectrum as a public resource, and regulated the payment for using that resource. Two factors determined the amount of payment: the output power of transmitters and the ownership status of broadcaster.

The following table represents the amount of the monthly fee charged by the IMC (and now the CRA) in KM\(^6\):

<table>
<thead>
<tr>
<th>Power of Transmitter – Watts</th>
<th>TV</th>
<th>Radio</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 100</td>
<td>50</td>
<td>25</td>
</tr>
<tr>
<td>101 – 250</td>
<td>100</td>
<td>50</td>
</tr>
<tr>
<td>251 – 500</td>
<td>200</td>
<td>100</td>
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<td>501 – 1000</td>
<td>400</td>
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<td>1001 – 2000</td>
<td>600</td>
<td>300</td>
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<tr>
<td>2001 – 5000</td>
<td>1000</td>
<td>500</td>
</tr>
<tr>
<td>5001 – 10000</td>
<td>1500</td>
<td>750</td>
</tr>
<tr>
<td>Over 10000</td>
<td>2000</td>
<td>1000</td>
</tr>
</tbody>
</table>


\(^6\) According to the currency exchange list of the Central Bank of B&H on June 28, 2005 US $1 = KM 1,607884
Private broadcasters receive a 20% reduction on the total monthly charge. Furthermore, the private broadcaster issued a two–year license pays 50% of the full amount during the first year and the full amount during the second year. Private broadcasters issued a five–year license pay 50% of the amount during the first year, 75% of the amount during the second year and the full amount in the last three years. This discount was issued as an additional motivation for development of the private media sector in B&H (Rule 03 Broadcast License Fees, 2001, p. 2).

Broadcasters make the first monthly payment 7 days after acceptance of the Terms and Conditions of the IMC Broadcasting License. A public broadcaster will have its “license revoked if the payment is three months overdue” (Rule 03 Broadcast License Fees, 2001, p. 3). A commercial broadcaster will lose all discounts if payments are not done on a monthly basis. (Rule 03 Broadcast License Fees, 2001, p. 3).

### 6.1.4. Merit–Based Competitive Process for the Awarding of Long–Term Licenses

The competitive process in the B&H media environment started with Phase Two of long–term broadcast licensing. For this occasion, the IMC issued a document which set the standards for the awarding of long–term licenses in September 2000. After the decision was published, the IMC opened a public debate on the document encouraging participation and comments within thirty days. The IMC then amended the process twice after that. Through the implementation of this document, the IMC wanted to provide the best and the most diversified content to the audience, motivate regional integration of broadcasters, and develop the conditions for a “fair, professional and viable media market.

The IMC developed four categories for appraising broadcasters’ viability, presented a scoring system, and the minimal requirements for the long–term license. All B&H broadcasters were examined based on the following categories and subcategories:

- Program quality (balanced and in–depth news, diversity of program genres and socio–cultural representations, use of demographic evidences in creation of program schedules, production and on–air presentation qualities, overall skills of program management)

- Financial information and viability (overall skill and entrepreneurship of management, capitalization, marketing skills and use of audience research data, quality of financial management to maintain service into the future, market potential for proposed service area)

- Technical operation (quality of in–house technical staff and management, quality of studio and transmitter facilities, demonstrated signal management abilities of technical staff)

- Prior compliance (subtraction of points based on severity of prior infractions – from requirement to publish an apology, warning or order, through fines, suspension of license or orders to shut down operations) (Rule 04 Merit–based Competitive Process for the Awarding of Long–term Broadcasting Licences, 2001, p. 3–4).
6.1.5. General Terms and Conditions of License

The General Terms and Conditions of License (GTCL) regulate the “general principles of issuance of License for broadcasting of radio and/or TV programme” (License for Terrestrial Broadcast Of Radio/TV Programme, 2004, p. 1). This document is in accordance with the CL and it requires the possession of a license for the purpose of broadcasting. It includes following conditions:

During the license period, station must ensure at least the qualitative minimum requirements for which it has received the License. These requirements refer to, but are not limited to, program, finances and technical operations. The agency retains the right to assess the quality of work of station, in each moment of validity of License, based on the criteria under which the License has been issued. (License for Terrestrial Broadcast Of Radio/TV Programme, 2004, p. 3).

The CRA warns that non-compliance with the conditions listed above, can result in revocation of license.

In addition, the GTCL regulates the scope of the licenses through a separate document that regulates license fees and sets the principles of programming. It defines the responsibility of broadcasters to respect the copyright obligations defined by local and international legislation, prescribes healthy measures for personnel and technical operations in accordance with European practices and requires licensees to provide operational information to the CRA. Furthermore, the GTCL explains the conditions for transfer of license and ownership, demands public availability of the individual terms and
conditions of license documents and defines the manner of official correspondence with the licensees.

Likewise, the GTCL requires licensees to keep a written record of complaints received from the general public and make them available to the CRA, and to inform the audience of their right to refer the matter complained of to the CRA. The station identification is defined by this document as well as compliance with the rules and regulations of the CRA, the right of the CRA to review the activities of the licensees and the sanctioning procedure for breaches of license terms and conditions. In addition, the GTCL defines the *force majeure*, or cases when the licensees cannot be held responsible for actions and failures to fulfill the obligations, defines the rules on renewal of license, and specials term and conditions and change of special terms. (Licence for Terrestrial Broadcast Of Radio/TV Programme, 2004, p. 3–8).

### 6.1.6. Media Concentration and Cross Ownership

In the Preamble of Rules on Concentration and Cross–ownership, the CRA states that “broadcasting plays a central role in democracy, and that is crucial to provide a range of different independent information and programming to serve the whole population” (Rule 21/2003 Media Concentration and Cross–ownership, 2004, p. 1). Furthermore the Preamble states that this set of rules was created in accordance with the best European media practices in the field of media concentration and pluralism and that plurality of ownership represents the first condition of political pluralism.

Ownership was defined as a holding of more than 10% of the share capital of a broadcast or print media by a physical or legal entity. Moreover, other definitions are provided within Article 1 of this document: broadcast media, population range covered,
and broadcasting and multiple coverage. Article 2 states that “One physical or legal entity cannot own two or more radio stations or two or more TV stations, which cover the same population range.” However, the CRA has anticipated exceptions and stated:

Only in exceptional cases, when required by technical regulation and/or compliance with international obligations in relation to protected and service zones, can the Agency issue a license by which certain transmitters cover the same population from different location and different frequencies. (Rule 21/2003 Media Concentration and Cross–ownership, 2004, p. 3)

Figure 6.1. 13 Areas of broadcast service defined by the CRA
Article 3 of the rules defines cross-media ownership and puts the limits in two segments: broadcast and print media, and radio–television cross ownership. A physical or legal entity can own print media and one broadcast station, either television or radio at the same time. In the segment of radio–television, “one physical or legal entity can own one radio and one TV outlet for the population range it covers” (Rule 21/2003 Media Concentration and Cross-ownership, 2004, p. 3). Transfer of a broadcasting license is possible with a previously reviewed application and in accordance to ownership limitations and other applicable rules.

One unusual characteristic of the CRA ownership rules is that foreign ownership and foreign investments are not limited. For example, one of the most successful private media entrepreneurs in the Balkan region is Zeljko Mitrovic, owner of the Serbian based TV station, TV Pink. Recently, Mitrovic has acquired 4 B&H TV stations, established the “Pink BiH Company” (TV Pink B&H) and transferred the licenses. TV Pink B&H is a commercial broadcaster based in the northeastern B&H town Bijeljina, and it operates in nine regions: Tuzla, Brcko, Doboj, Sarajevo, Banja Luka, Kotor Varos, Gorazde and Trebinje (Finci, 2004).

6.1.7. Public Broadcasting Regulations

It is important to emphasize that the Law on the Basis of the Public Broadcasting System and on the Public Broadcasting Service of Bosnia and Herzegovina was imposed as one of the last decisions by the preceding High Representative in B&H, Wolfgang Petrich. Three public broadcasters are defined within this law:
– Public Broadcast Service of Bosnia and Herzegovina (PBS B&H\textsuperscript{61})

– Radio Televizija Federacije B&H (RTV FB&H)

– Radio Televizija Republike Srpske (RT RS)

In the Preamble of the Definition and Obligations of Public Broadcasting (DOPB), the CRA emphasizes a duty of broadcasters supported or subsidized by public funds to serve the interests of “all citizens, within their broadcast area, without regard to nationality, ethnicity, religion, age, gender or social status” (Definition and Obligations of Public Broadcasting, CRA Rule 01/1999, 2003, p. 1). In regard to content, the CRA consistently articulates the general European practice of public broadcasting regulation as serving the needs of society, and providing accurate and fair news and information along with educational and cultural content.

Public broadcasters are defined as media organizations whose license is issued to a municipal, cantonal, entity or state government, which receives 51% or more of its operating financial support from a municipal, cantonal, entity or state government agency or organization. This set of obligations and responsibilities includes general programming requirements which are usual for European public broadcasters: requirements for fair and balanced programming, equitable time for political candidates, identification of the programming source, and separation of advertising content from the news. Furthermore, within the content requirements, it is stated that 40% of programming shall consist of news, and informational and educational programming.

However, one specific issue in B&H was included in the content requirements, the “issue of the return of refugees and displaced persons in B&H, and the situation of

\textsuperscript{61} composed of PBS TV B&H and PBS B&H Radio 1
local minorities and other vulnerable groups must be presented in the constructive and humanitarian spirit of the General Framework Agreement for Peace (GFAP) in at least one hour of news or other informative programming each week” (Definition and Obligations of Public Broadcasting, CRA Rule 01/1999, 2003, p. 3). Public broadcasters must have at least ten hours of children’s programming each week, designed with educational and instructive purposes, which may not be interrupted by advertisements. It is stated that “cartoons containing elements of violence are not considered children’s programs,” but the term violence was not defined and explained further. Public radio stations are exempt from requirements on children’s programming.

In addition contact programs or relevant political, social, economic and education issues which involved an audience in telephone contact, on-the-street TV interviews and surveys are counted as news and informational programming. Public broadcasters may not repeat such programs more than once in a week. All broadcasters should have, upon request, a program log of news, informational and educational content on a daily basis.

A public broadcaster needs to appoint an Editorial Council (EC), which should “represent the political, ethnic, cultural and religious composition of the population that the broadcaster serves, and advise the station on matters of program content” (Definition and Obligations of Public Broadcasting, CRA Rule 01/1999, 2003, p. 4). The CRA must confirm the membership of the EC, which consists of four to seven members and includes at least one educator. Members of the EC cannot be elected public representatives, and the membership term of two years is renewable once. Members of the EC elect the chairman, whose term is one year and is not renewable. Basically, the main task of the EC is to meet at least once every two months and, based on their
competencies, advise the editor–in–chief of the station “on ways to better serve the community through broadcasting” (Definition and Obligations of Public Broadcasting, CRA Rule 01/1999, 2003, p. 5). In the case that the members of the EC cannot achieve consensus on an issue, they can submit separate reports to the editor or station manager.

According to the DOPB, a public broadcaster has to prepare a full account of all financial support received and expenses on an annual basis, or more frequently if the CRA asks for reports. All reports are considered public documents and they have to be available for public inspection. Moreover, a public station is obliged to disclose any commercial interest in money, service or other valuable consideration and to announce source of sponsorship, payment, studio furnishing or any other material contributions. The time for paid advertisement is limited to four minutes per hour for TV and six minutes per hour for radio stations. The advertising price list has to be publicly available. An unusual fact is that paid political advertising was totally prohibited until The Rulebook was amended in October 2004. The CRA does not prohibit other ways of generating revenues during unused or open program times, or renting studio equipment and facilities.

Legally, neither the editor–in–chief nor the manager of a public broadcaster can hold a position of responsibility in a political party. However, the tendency for direct involvement by the political establishment in appointing the general manager of cantonal and communal public broadcasters is still present. Management and editors of communal and cantonal public broadcasters usually demonstrate an inclination towards elected political establishments, because those governments have to approve subsidies from the public tax money every year. According to Enes Osmancevic, a former member of the
Board of Directors at the TVTK, this is especially the case with the cantonal and local public broadcasters, and can be illustrated by the moves of the newly elected Cantonal Government in Tuzla Canton after the 2000 elections. After the triumph of the Social Democrat Party in the Tuzla Canton, the relatively successful general manager, Edib Kravic, who was appointed by previous SDA government, was replaced by a manager without any experience in broadcast organization. Radio TV TK is the organization subsidized by the Tuzla Canton tax money, in annual amount of KM 870,000 (approximately $ 590,000). During just two years as the leader of the RTVTK the new manager had a financial loss of more than KM 120,000, but he was still protected by the political party which appointed him. (personal email correspondence, Osmancevic, June 2, 2005).

In addition, the official name of a public broadcaster cannot contain “any prefix, reference symbol or designation which may lead to its being regarded as the exclusive domain of one ethnic national group” (Definition and Obligations of Public Broadcasting, CRA Rule 01/1999, 2003, p. 7). After the National Assembly of Republika Srpska, despite previous appeals, failed to act on the matter of changing the name of “Srpska Radio Televizija” (Serbs’ Radio TV) 18 months after the appeal, the OHR has issued a new decision on August 31, 1999:

The decision, which completed the Public Broadcasting Reform package issued on 30 July, is hoped to bring Republika Srpska closer to European standards on public broadcasting. The amendments also eliminate all Serb-exclusive references, and change the name ‘Srpska Radio Television’ to “Radio Television of Republika Srpska. (Pech, 1999, p. 22)
It is still a paradox that the Entity of Republika Srpska also has an exclusive ethno–national name, which is contrary to the European Convention of Human Rights.

In addition, the Definition and Obligations of Public Broadcasting contains penalties for deliberate or systematic failure in compliance to the obligations. In such cases the CRA may “consult with the station’s EC, require a written plan from the station to correct the deficiency, and even require a change in station management as an alternative to suspending or terminating the station’s license” (Definition and Obligations of Public Broadcasting, CRA Rule 01/1999, 2003, p. 7).

The monthly payment of a subscription fee is obligatory for all physical and legal entities that possess a radio or TV receiver. “All households shall pay one RTV subscription fee regardless of the number of receivers in the household. Only one member of the household shall be the subscriber” (Law on the Basis of the Public Broadcasting System and on the Public Broadcasting Service of Bosnia and Herzegovina, 2002). According to this law “all physical and legal entities shall be obliged to report to the public broadcaster the acquisition of a radio or television set within thirty (30) days, if it creates the obligation to pay the RTV subscription fee, as determined by this Law” (Law on the Basis of the Public Broadcasting System and on the Public Broadcasting Service of Bosnia and Herzegovina, 2002).

Furthermore, fifty–eight percent (58%) of the RTV subscription fee collected by entity broadcasters (RTV FB&H and RT RS) shall be the Entities’ broadcasters’ share, and the remaining forty–two percent (42%) of the RTV subscription fee, shall be PBS B&H’s share.
The very active debates which followed implementation of the Law on the Basis of the Public Broadcasting System were about the mechanism of money distribution from entity broadcasters who were in charge of collecting the subscription fee to the PBS. General Manager of the RTV FB&H, Jasmin Durakovic, suggested a different model of distribution because RTV FB&H has twice as many subscribers as RT RS, and collects more revenues from advertising. He also argued for the necessity of integrating the three public broadcasters in Bosnia and Herzegovina, stating:

very soon we will have some strong local commercial stations in this market. We will have RTL or some other broadcast companies which are trying to cover all of the former Yugoslav market, and produce almost the same content from one center for the market of more than twenty million people. In such a competitive media environment, the survival of three public services will be impossible and I cannot see a bright future for the concept we have now. The only sustainable option is to have integrated public service with three branches. I don’t know if anyone in Bosnia is working toward the plans of restructuring public service for such changes. (Imamovic, 2004, p. 14–15)

Disintegration of Bosnian territory and the Bosnian people, even in the domain of media, will remain a challenging issue and a predominant tendency as long as the political environment is created by the ethnocentric parties SDA, SDS and HDZ. The most recent attempt to further divide instead of integrating public broadcasters has come from the HDZ representatives during the national Parliamentary session. An HDZ representative in the national parliament, Ivo Miro Jovic, demanded “three national TV broadcasters in three languages” (Orahovac, 2005). Such demands are constant, although
the TV FB&H broadcasts content in both Bosnian and Croatian languages equally, and the employee ratio is balanced for ethno–national composition. Although such appeals formally can have a foundation in the realization of basic human rights, the European Charter for Regional and Minority Languages and other international conventions on human and cultural rights says such initiatives in B&H are politically manipulative and intended to further the political and cultural division of Bosnian society.62

6.1.8. Contribution of the CRA in Domain of Copyrights and Intellectual Property Rights Protection

According to the Director of the Intellectual Property Division of the WTO, Adrian Otten, Intellectual Property Rights (IPR) represent a “form of legal protection given to a manifestation of the human mind” (Otten, 2000). The U.S. Copyright Office’s booklet Copyright Basics states that “there is no such thing as an ‘international copyright’ that will automatically protect an author’s writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer protection to foreign works under certain conditions” (Copyright Basics, 2004, p. 1). All international treaties and conventions on copyrights have been greatly simplified and their development can be traced from 1884, and the Paris Convention for the Protection of Industrial Property (BIRPI – French abbreviation) (O Siochu et al., 2002, p. 88). Just two years after the Paris Convention, the Berne Convention expanded the agreement that primarily included

patents, trademarks and industrial design, to the broad fields of intellectual and creative work “from novels and poems, to opera, drawings, and sculptures. The moral rights of living authors were recognized only in 1928, and extension of the rights after the death of the author in 1948” (O Siochu et al., 2002, p. 88). In 1970, BIRPI became WIPO, and in 1974, WIPO became a specialized agency of the UN.

Bosnia and Herzegovina have signed all relevant international documents for the protection of copyrights and the intellectual property. The main legal frame which regulates copyright issues in B&H is defined by Article 3 of the Law on Communications of Bosnia and Herzegovina, which was imposed by the High Representative, Paddy Ashdown in October 2002. According to Article 3, “copyright and other intellectual property as well as personal data and privacy is protected” (Law on Communications of Bosnia and Herzegovina, 2003). Prior to the Law on Communications, copyright issues in the field of broadcast media were regulated by the CRA within the document Compliance with Copyright Obligations (CCO). This document defined the protection of intellectual property, including audio and video materials according to international laws and practice and was “essential for the development of a market economy in Bosnia and Herzegovina” (Rule 02 Compliance with Copyright Obligations, 1999, p. 1).

The CCO document emphasizes, in the preamble, the harmfulness and risk of breaking international laws and practices regarding copyright issues, especially broadcast piracy which provokes a “risk for international trade countermeasures,” and “obstructs the development of a market economy and consequently impedes the strategic aims of the General Framework Agreement for Peace” (Rule 02 Compliance with Copyright Obligations, 1999, p. 1). According to the CRA’s General Terms and Conditions of
License “the Licensee shall be responsible for all obligations and liabilities to any third party associated with copyright or other rights of intellectual property that may arise from the broadcast use of any such property or performance (Rule 02 Compliance with Copyright Obligations, 1999, p. 2).

The article on Fair Use within the CCO document allows broadcasters “to use reasonably brief excerpts of video, audio or text material subject to the protection granted under international copyright law and national law on intellectual property rights, provided that a broadcaster gives clear attribution to the source, just for the purposes of news reporting, informative or educational broadcasting” (Rule 02 Compliance with Copyright Obligations, 1999, p. 2). In addition the rule states that the standard of “‘fair use’ shall not be interpreted to permit multiple, sequential use of news materials produced by other organizations in the absence of valid agreement from the owners” (Rule 02 Compliance with Copyright Obligations, 1999, p. 2).

In addition, the CCO document regulates the broadcast of whole or substantial parts of copyrighted materials in harmony with relevant international copyright norms, asking for a valid contract with the owner or legally authorized vendor of the materials. Sanctions for failure to comply with the CCO rules are determined by the CRA’s “Enforcement Panel, or the Director General of the CRA according to the Procedure for handling cases. Financial penalties may be calculated as a multiple of the commercial cost of broadcasting the product(s) in question, such cost to be determined by the CRA in consultation with relevant vendors” (Rule 02 Compliance with Copyright Obligations, 1999, p. 2).
Undoubtedly, the CRA had tremendous success in implementing the copyright rules within the broadcast segment. In 2003 and 2004 there were just a few insignificant breaches of the CCO rules. However, in general, B&H media creators and distributors still suffer from widespread piracy and deterioration from not implementing the international agreements and norms. It took several years and tremendous effort by the CRA to improve standards in the protection of copyrights and the intellectual property just in the segment of broadcasting. Other segments of copyright and the protection of intellectual property in B&H still suffer from widespread piracy, performed even by state institutions and religious communities. The following examples represent the deterioration in the implementation of all local and international standards.

According to the Microsoft representative for B&H, Zlatan Jugo, B&H governmental and public offices at all levels use unlicensed Microsoft software products. However, negotiations between Microsoft and B&H governmental representatives started in March 2005 and they first agreed that Microsoft will not press legal charges against the B&H government for previous illegal usage of their products. The representative of the B&H governmental negotiating team, Zlatko Hurtic, has confirmed the unlicensed usage of Microsoft’s software in the B&H governmental institutions and negotiated with Microsoft about their further use. In the meantime, the B&H Government received an offer from the Association of Linux Users in B&H to follow the example of some European countries and use free Linux software. The B&H governmental administration will continue usage of unlicensed software until the beginning of 2006, waiting for the final decision of the Agency for Implementation of New Technologies in B&H (Cubro, 2005).
Another example became a local anecdote, after the Catholic Church in the southern part of B&H started screening Mel Gibson’s movie *The Passion of the Christ* in the towns of Siroki Brijeg, Cerin, Citluk and Ljubuski during March of 2004. The main problem was that the official premiere was scheduled for April 1, 2004 by its legal distributor for B&H and Croatia – Blitz Film & Video (A.O., 2004). A short review of this striking example of piracy in the local political magazine *B&H Dani* emphasized how enthusiastic audiences commented upon their impressions of this movie within live contact radio programs long before April 1, 2004.

6.1.9. Breaches of Rules and Regulations

This section presents the CRA’s reports on breaches of rules and regulations and the most recent decisions of the CRA in preventing the language of hate, and protecting the public interest through the implementation of the rules on deceptive reporting and protection of decency and civility.

According to the CRA’s Annual Report on Breaches of Rules (Report), during 2003 a total of 134 cases were opened. Out of that number, 29 cases arose from complaints by radio and TV stations, 67 from complaints by individuals and organizations, and 38 cases were opened *ex officio* (Report on Cases of Breaches of Rules in the Year 2003, 2004, p. 6). A significant increase from the previous years in the number of complaints that came from citizens illustrates the importance of the CRA’s role in the building of civil society in B&H. Specifically, during the early IMC days the majority of the cases were opened *ex officio*. The high level of participation by the B&H citizens in regulating the media environment also confirms that the role of the media regulatory agency evolved after the early phase which was marked as a “media
intervention” by local analysts. Although international experts involved in solving the
B&H media puzzle were hesitant about the accuracy of that definition, the author of this
study accepts it as a fact because of the imposition of new laws and regulations, and the
active involvement and supervision in the creation of the regulatory policy by the
international authorities.

According to the Report a total of 24 decisions on violations of Rules were
adopted in 2003. The following sanctions for violation of Rules were adjudicated: six
financial penalties in the total amount of 15,900 KM (approximately $10,700), four
warnings, one suspension of broadcasting operation, one transfer of ownership, one
withdrawal of Terms and Conditions of the Broadcasting License, one discontinuation of
usage of frequencies, one suspension and one termination of suspension (Report on Cases
of Breaches of Rules in the Year 2003, 2004, p. 6). A suspension of license is a
temporary measure and it is issued usually on a period of 30 – 60 days for a repeated
violation of decency and civility, usage of hate language, or other drastic breaching of
rules and regulations. The CRA is authorized to withdraw a station from service if
“serious damage to the network, harmful radio interference or damage to the operation of
the network” (as cited in Ashdown, Oct 21, 2002, p. 20). An order to discontinue with
usage of frequency for broadcasting is a measure applied on media organizations which
illegally use certain frequency or fail to submit requested documentation for the
frequency usage.

Furthermore, a significant decrease in the number of violations, in comparison
with the reports of IMC from previous years, was noted in the 2003 Report. During 2003,
out of 185 operating broadcasters in B&H, 16 stations were subjects of decisions in 2003,
9% of the total number. During the year 2002, 5% stations were involved in violations of the rules, and average number of violators from 1998 until 2001 was 20%\textsuperscript{63}.

Figure 6.2. represents an overview of 144 sanctions in total, in the period of 1998–2003. Out of that number 75, or 52% were financial penalties, 31 sanctions or 21% were warnings, 9 sanctions or 6% were orders, 21 or 15% were suspensions, 3 or 2% terminations of provisional license, 1 or 0.6% withdrawal of license, 3 or 2% suspensions of broadcast operations and 1 or 0.6% of discontinuation of rebroadcast (Report on Cases of Breaches of Rules in the Year 2003, 2004, p. 6)\textsuperscript{64}.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{Figure62.png}
\caption{Comparison of sanctions in the period 1998 – 2003 (source: CRA)}
\end{figure}

\textsuperscript{63} The 2003 report includes violations of the Rules in the field of telecommunications and frequency spectrum, but for the purposes of this study, just the broadcast segment will be examined.

\textsuperscript{64} The year 1998 is characterized with a very small number of penalties, i.e. 4, because the former IMC commenced with its operations only in August of that year (Report on Cases of Breaches of Rules 2003, 2004, p. 8–9).
The CRA described the overall number of sanctions as relatively small. Moreover, they insisted that in the process of implementing the Rules and Codes, their foremost intention was to introduce widely accepted practices in cooperation with journalists, promote the freedom of expression, make B&H journalism closer to the global standards, and “the last thing of this process was sanctioning of broadcasters for proved violations” (Report on Cases of Breaches of Rules 2003, 2004, p. 9). Since the amount of money that the stations had to pay for breaches might seem minor and symbolic, it is also important to emphasize that the IMC did not have the intention to incapacitate broadcasters by applying drastic financial measures. However, during 2004 the CRA adjudicated more drastic financial penalties, discussed below. The Report also emphasized that a significant decrease in the number of violations indicates an “inclining trend of stations complying with professional norms and journalists’ standards” (Report, p. 9, 2004). The CRA also emphasized the declining trend of violations related to the use of hate language and disrespect of ethnic, cultural and religious diversity.

The Broadcasting Code of Practice provision requiring stations to record programs and retain them for 30 days was reduced to 14 days after requests from many stations. The CRA warned broadcasters that this is a part of the broadcasters’ obligation towards the citizens. During the year 2003 the CRA recorded violations of the recording retention provision at three stations; two stations violated Decency and Civility rules, and one station violated the rules of Fair and Impartial Programming. One of the most challenging issues for the CRA was the implementation of copyright obligations. However, a significant decline in the number of copyright cases is noticeable. During the year 2003, only few stations violated the Code regarding
unauthorized broadcasting of copyrighted material. Before the IMC set the rules for broadcast copyrights, all local media were involved in drastic breaches of international copyright standards.

The CRA contributed to the development of a fair and democratic media environment in B&H through cooperation with journalists and other media professionals in applying universal norms and media standards. According to the Report, there are still few stations that are involved in violations of applicable Rules, which indicates a negative attitude towards compliance with professional conduct. The CRA hopes that these stations will continue their efforts to resolve these issues with continuous support from the CRA staff in the sense of operation and implementation of Rules. (Report on Cases of Breaches of Rules 2003, 2004, p. 9)

6.1.9.1. The Most Recent Decisions of the Communications Regulatory Agency in Preventing the Language of Hate and Unfair and Deceptive Reporting

Two recent cases are significant examples of the CRA’s Enforcement Panel’s (EP) approach to breaches of the Codes regarding the language of hate and unfair deceptive reporting.

After an analysis of a religious program aired in November 2004, the EP sanctioned the *RTV Alfa* for breaching the Codes in the segment of language of hate. The EP ordered the payment of a fine in amount of KM 50,000 ($ 34,000) with an additional warning to the personnel of the *RTV Alfa* that “any future violation will entail imposition of suspension of the Licence” (Finci, Dec. 2004, p. 6.), and a maximum financial fine up to KM 300,000 (approximately $200,000). The 60 minute program contained a lecture by
an unnamed Imam\textsuperscript{65} “treating the topic of need and possible types of help to be
provided for Iraqi and Palestine people” (Finci, p.2, Dec. 2004). The lecturer blamed
Muslims in general for being unaware of the “American–Jewish conspiracy.”

We know that constantly, daily, American–Jewish products are being used. We
drink Coca–Cola, Pepsi, we use their banks, their weapons, Nike, and different of
their products are bought here. One and a half billion Muslims, can you imagine
how much Coca–Cola they drink daily? Based on one data, there are 700 million
bottles of Coca Cola drank on a daily basis. You are aware that those Coca Cola,
look out, we are only talking about one product, 10\% goes to Israel to purchase
the weapons which killed, who? Palestinian children, Palestinian mothers,
Palestinian women, Palestinian soldiers. 10\% of each glass goes for them there…
(as cited in Finci, 2004, p. 2)

Furthermore the Imam continued with the serious anti–Semitic statements:

Imagine Muslims boycotting their products, imagine Muslim, instead of 700
million Coca Cola drink some domestic drink, 700 million drinks and those 10\%
instead of giving to Israel and our enemies, as Allah\textsuperscript{66} dz.s.\textsuperscript{67} said, the greatest
enemies to the believers are Jews. The Jews are the greatest enemies, what ever
you think about them. Whatever you think of them, the Jews are the greatest
enemies… (as cited in Finci, 2004, p. 2)

\textsuperscript{65} The man who leads prayers in a mosque, officially appointed by the Islamic Religious Community.
\textsuperscript{66} Muslim name for the one and only God.
\textsuperscript{67} Almighty.
In addition, the Imam also implied derogatory terms against other religious groups in B&H, and agitated against the local meat company owned by the people whose religious background is Catholic:

Instead of such Coke, produce Meka–Coke which is Muslim and 10% of that Coke goes to Palestinian brothers. It goes to them for battling the Jews, which means, only redirect, reorient. Than, do we not help our economy? Do we need to, instead of our milk buy Serbian milk, Slovenian milk, Croatian milk? Do we need to, instead of domestic meat product, buy sausage from Lijanovici. I don’t know if you have it, we have plenty. Do I need to buy ‘vlaško’ which is suspicious? I give them one mark out of my pocket as well. It is the same if I said: ‘Jew here is 100 000 marks’. Around half a million marks from BiH, from Coca Cola, based on their data, goes to them, to Jews.

If we help them, we shall be responsible before Master of the worlds, why we gave this coin, given from Allah dz.s, to our unbeliever, our opponent, our killer, who will for that coin buy a knife to use for killing us tomorrow. (as cited in Finci, 2004, p. 3)

Moreover, in the following part of the program the Imam quoted the poet Abu Teman, and interpreted his words in a specific way:

You cannot prove it and repair the status of Muslims by paper, it does not work. It is known with what the status of Muslim can be repaired in the world. What was

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68 B&H company whose founders and owners are Bosnian-Herzegovinian Croats, Catholics by religious background.

69 “Vlah” is an extremely derogatory name for all Christians in Bosnia. “Vlaško” (Vlach) is a genitive form of derogatory noun “Vlah”.

70 According to Finci, instead of Jews another pejorative confessional term for Jewish people, “Cifuti,” was used in this context.
used to repair it in the beginning of time? Preaching Islam to all places, convincing the people there is only Allah a God, pure the heart from all idols, and if needed Jihad. And Jihad was needed and it shall be needed. And do not think we shall survive without those three things. Belief, economy and when Jihad come respond to Allah dz.s. But, we are not yet ready. We need to be raised for that. (as cited in Finci, 2004, p. 3)

The Imam was not selective in alleging former Yugoslav President Tito and all other peoples in former Yugoslavia were responsible for the unenviable position of Muslims in the region:

When Muslim women took off their veils in B&H, in the 1950s, when Tito’s communist government ordered them to take off their cloaks, one Vlah stated, Muslim women unveiled, prosperity be gone. Vlah said that, Vlah felt it, when women stopped wearing their traditional clothes prosperity vanished. Do you feel that you have prosperity today? You can have thousands and thousands of marks but there is still something missing. The reason for that is because we have so much “nudity” on the streets today. That is because men like it, bars are crowded with men more than mosques. The situation is like this because we started making friendly relations with our [kjafirs] non-believers. (as cited in Finci, 2004, p. 3)

Since this was the third, and the most serious breach of the Broadcasting Code of Practice and Terms and Conditions of License, TV Alfa was sanctioned more drastically

71 According to different dictionaries and interpretations, there are several possible ways to interpret the term “Jihad:” a Muslim holy war or spiritual struggle against infidels, a holy struggle or striving by a Muslim for a moral or spiritual or political goal. (www.dictionary.com)

72 “Kjafir” is Arabic word for unbelievers, but in this context represents a disparaging term for all non-Muslims and people of other beliefs.
than in previous cases. In the case of repeated violation, the CRA may impose fines up to KM 300,000 (approximately $200,000) and terminate the license.

6.1.9.2. Protection of Public Interest – Decency and Civility – The Most Recent Cases

The development of a public sphere – encouragement of public debate and advancement of the public interest – in the segment of mass media is exceptionally important for B&H. From the previous discussions one can draw the conclusion that B&H represents the country with a deficient democratic heritage since its political ambience was mainly characterized by the rule of different authoritarian regimes, occupations, and ideological frames for centuries. For those reasons, democracy and the public sphere were not flourishing in the past, and it would be irrational to expect spectacular results in this segment of media in the short period of time. However, the CRA was charged with the complex task of performing activities to promote and protect the public interest in broadcasting. Since all previous discussions and examples focused on politics and the reflection of ethnocentric ideas, the following example will provide insight to the CRA’s protection of decency and civility.

On June 13, 2004 around 11 AM, TV Pink broadcast the talk show “Svet plus” (World Plus) entitled “Sex, Lies and Videotapes.” The main topic of this show was Severina’s homemade porno video. “This show hosted a couple of guests of various professions: a singer, a dancer and an actress, one lap–dancing girl and anchor of the “naked news”, a porno–actor, a journalist, an owner and photographer of porno–

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73 Severina Vuckovic is a popular Croatian pop-singer, whose private video with scenes of explicit sexual intercourse was recently published in many media without her permission. Famous “Severina’s homemade porn” became one of the most shared internet files during the summer of 2004 in the whole Balkan region. The issue of her right to privacy recently occupied great attention and caused controversy in media and among the public, mainly in Croatia, Bosnia and Herzegovina and Serbia (Finci, November 5, 2004, p. 6).
magazines and also the director of porno movies” (Finci, Nov 5, 2004, p. 1–2).

According to the Enforcement Panel report, before the show started TV Pink broadcast advertising for a magazine intended for mothers, with babies’ photos on the screen, and immediately after the commercial TV Pink started their TV magazine showing the scenes of explicit sexual intercourse for two minutes. “Explicit scenes from the video were broadcast a couple of times within the show afterwards. Other subjects in the show were sexual exhibitionism, sexual devices and similar themes” (Finci, Nov. 5, 2004, p. 2).

Since this was not the first time that TV Pink breached the rules on decency and civility, the station was ordered to pay a fine in the amount of KM 5,000 with a warning that the station “can be liable for the financial penalty up to KM 150,000 and in case of repeat violation the sanction can be up to KM 300,000” (Finci, Nov. 5, 2002, p. 5).

The CRA’s Broadcast Code of Practice strictly regulates the types of programming that can be broadcast only in the period from 10 PM to 6 AM: “program services which are likely to impair the physical, mental or moral development of children and adolescents shall not be scheduled when, because of the time of transmission and reception, they are likely to watch them” (as cited in Finci, Nov. 5, 2004, p. 4). Such programs include, but are not limited to “programs that include the strongest acceptable sexual materials, violence or themes [such as child abuse or use of drugs] treated in a way likely to be harmful to children” (as cited in Finci, Nov. 5, 2004, p. 4).

An interesting reaction came from TV Pink management in several letters, claiming to CRA that they do not employ relevant experts to judge this program. The following quotation is from the letter sent by the manager of the TV Pink on September 8, 2004:
We hope you have received the letter from 13th August 2004, informing you that the show “Svet plus” previously broadcast at 11:00 hours, shall now be broadcast late night. We have explained that there is no specific reason for a negative evaluation of the show which only reports on regular life topics. We already indicated that this needs in–dept analysis of whether this is a violation of the Code of Practice considering its practical side or if it should be a topic for relevant experts dealing with such issues, and as I’m aware, Communications Regulatory Agency does not employ such experts. Hereby, we reiterate that Pink B&H is willing to engage such experts and take all the cost for it in order to get proper conclusions. However, since we are always for the cooperation with the Communications Regulatory Agency, we have accepted your unproved conclusions that such a show can produce a harm if broadcast in the daily program, therefore we have scheduled them for late night, in order to avoid further misunderstandings. (As cited in Finci, Nov. 5, 2004, p. 3).

Since TV Pink was not satisfied with the fact that the Enforcement Panel (EP) was already handling their case, their manager sent a new letter to the CRA on September 15, 2004 where they again insisted on prior examination of their case by the “panel of experts” (sic.). TV Pink’s management continued denial of the CRA’s procedure as relevant, although they were warned for three serious breaches in a short period of time prior to this case. The following quotation is from the letter sent by the management of the TV Pink to the CRA:

Your letter indicates that your intention is to send our case to the Enforcement Panel for a decision. We are of the opinion that a professional commission
composed of experts of such field should firstly give an opinion and afterwards the case shall be presented to the Enforcement Panel for decision. If the case is directly submitted to the EP for decision, our view is that the members of the EP would be in position to decide upon something which was not previously cleared up and they are not competent for. We, as the RTV station, suggested more than once that the whole case should be specifically analyzed, and complete statements were made in our letters of 31\textsuperscript{st} August, 13\textsuperscript{th} August, 6\textsuperscript{th} August and 9\textsuperscript{th} August 2004. In case you are still for the case to be presented at the EP, which will be in session on 16\textsuperscript{th} September, hereby we suggest to the EP to form a commission composed of experts from the field in question in order to give an opinion and submit a relevant report to the Enforcement Panel. (as cited in Finci, Nov. 5, 2004, p. 4)

6.2. Broadcasters’ Feedback on the Work of the Communications Regulatory Agency

In order to complete this study, a presentation of the broadcasters’ perception of the Bosnian and Herzegovinian regulatory agency is indispensable. Because of a generally small response rate on questionnaires, the possibility of conducting a new study with a satisfactory and representative sample out of the total 183 broadcasters was quite unimaginable. Nevertheless, a total of 10 questionnaires were sent to broadcasters, four to the owners and managers of private media enterprises, and six to the managers of public media at all levels – from the municipal, cantonal, both Entities’ public services and the PBS. Although the author of this study double checked the receipt of the previously emailed questionnaires through a telephone conversation with the representatives of each
media, the final response rate was a total disappointment. Although the general response rate in email surveys and interviews can be small, the author of this study cannot provide the rational explanation for the 0% response rate from B&H broadcasters.

For that reason, the author will use the secondary sources provided as results and analysis of the extensive research conducted in December 2003 for the purposes of the CRA. Confidentiality and the seriousness of this document and the sample of 104, or 57% of the total number of broadcasters, give it the necessary credibility to use it as a relevant source. However, it is important to mention that a relatively small number of questions and sub–questions were not answered within the original study, and they have not been included in the final results. It is also emphasized that some stations gave more than one answer on certain questions, which made the percentage of responses on these questions exceed 100%. The questionnaire form included 13 questions.

The first question was “Are you satisfied with the work of CRA”, and the questionnaire left just three options to broadcasters: 1. Yes, 2. No, and 3. I don’t know. A large majority of broadcasters, 97% (98) answered “Yes,” 1.5% answered “No” and 1.5% answered “I don’t know.” In the sub–question a more precise technique was used for more diverse insight in the evaluation of the CRA work. Broadcasters were asked to evaluate the work of the CRA on a scale from 1 to 5, based on the Likert technique. On this scale 1 represented lowest and 5 highest marks. 61% of broadcasters evaluated the work of the CRA with mark 4, 18% of stations gave the highest mark for CRA’s work, 16% of stations gave CRA a 3, and one station a 1.
Figure 6.3. Evaluation of the CRA’s work

The following question for broadcasters was open ended and intended to identify the points where the Agency should improve its work. This question was mainly answered by the stations which gave low marks on the evaluation question. Comments included the following opinions: “There are frequent mistakes in sending documents, invoices etc,” that “Agency’s employees have difficulties to accept that they can make mistake, or they never accept that fact.” Some broadcasters stated that “Employees’ attitude towards clients should improve,” and they “Give fast answers on technical questions” (Results of the Survey of Broadcasters in BiH, 2003: How Satisfied are Broadcasters with the Work of the Communication Regulatory Agency, 2004).

Since the CRA has three offices – the main Office in Sarajevo, and two regional offices in Banja Luka and Mostar – they wanted to know which offices broadcasters’ representatives were mainly cooperating with. The busiest office is Sarajevo, because 85% of stations cooperate with them. The second one is Banja Luka Office with 19% and the third in Mostar Office with 7%. Since the percentage exceeds 100, it is important to mention that around 10 of the stations have parallel cooperation with the main office and
one regional office. The next question referred to the frequency of contacts in the past year; 47\% of the stations answered that they contact the Agency “several times a year,” 32\% answered “several times a month,” 19\% “once a month” and around 1\% “once a week.” The frequency of contacts decreased in comparison with the results of research from the year of 2002, and the rational explanation for that change is the fact that 2002 was the year of issuance of the long–term licenses. The main reasons for contacting the Agency during the 2003 were: “expert, advisory and informative contacts; explanations and consultations; contacts of technical nature; changes of program schemes or technical equipment; news, legislation, information on electronic media; compliance with rules, etc” (Results of the Survey of Broadcasters in B&H, 2003: How Satisfied are Broadcasters with the Work of the Communication Regulatory Agency, 2004, p. 3).

The following figures represent answers on five sub–questions under question 6. They are all based on a Likert Scale where the mark 1 represents total disagreement, and 5 indicates total agreement. Figure number 6.4. represents the understanding of the role of the CRA. A total of 94\% of the B&H broadcasters understand the role of the CRA very well or excellent, 5\% good, and just 1\% do not understand the role of the agency enough.
Figure 6.4. Understanding of the CRA’s role

Figure 6.5. represents the perception of the Agency as a well coordinated organization. The majority of the B&H broadcasters, 78% believe that the CRA is very well coordinated organization, 13% believe that the coordination is good and just 3% are not satisfied with the CRA’s coordination.

Figure 6.5. Perception of the CRA as a well coordinated organization
Figure 6.6. represents the broadcasters’ perception of the openness and accessibility of the Agency; 80% of the broadcasters think that the CRA is very open and accessible to broadcasters, 14% are satisfied and 5% think that there is still more space for improvement in this segment.

![Figure 6.6. Openness and accessibility of the CRA](image)

Figure 6.7. represents the broadcasters’ perception of the Agency’s accuracy when informing broadcasters about changes and new rules. A large majority of broadcasters or 90% think that the CRA informs broadcasters about all new rules and about all changes on time; 8% of them think that there is some more space for improvement, and just 2% are not satisfied with the timing of informing.
Figure 6.7. Timely information on all changes/rules

The last Figure 6.8. represents their perception of the consistency and fairness of the Agency. It is obvious that majority of broadcasters are satisfied with the consistency and fairness of the Agency and that the general perception of the CRA’s performance amongst their primary target audience is positive.

Figure 6.8. Consistency and the fairness of the Agency
In addition, some comments from the broadcasters who gave the lowest marks on this set of questions will be mentioned. They expressed the opinion that the: “Agency is a roof institution and not a partner, therefore during contact there is an impression of the ‘force above.’ It is a fact that the CRA’s web page enables rather free access, but the sense of transparency and accessibility is still of subjective nature” (Results of the Survey of Broadcasters in B&H, 2003: How Satisfied are Broadcasters with the Work of the Communication Regulatory Agency, 2004, p. 4). However, this perception was shared by respondents who expressed less satisfaction with the work of the CRA.

Furthermore, the CRA’s employees scored very high on the general perception of broadcasters of their helpfulness; 89% examined believe that CRA’s employees are very helpful, 7% of them think that improvement is possible but that they are helpful, and just 2% of broadcasters think that the CRA’s employees are not helpful at all.

The study also shows a very high score on “realizing its promises;” 85% of broadcasters think that CRA realizes all promises, 55% believe that the frequency of the broadcasters’ meetings with the CRA’s representatives is satisfactory, 85% is highly satisfied with the quality of advice provided by the CRA’s staff. The overall satisfaction with the dynamics of communication is significant. The CRA scored very high on the following categories: speed of reply to written correspondence – 82%, speed of returning phone calls – 86%, overall quality of services – 90%.

Moreover, 80% of the stations use CRA’s web page, which generally represents an excellent source of relevant and up–to–date information. The CRA’s webpage can serve as a role model for all other state agencies and institutions. It provides daily
updated content, in four languages: Bosnian, Serbian, Croatian and English with an abundance of archived documents, decisions, relevant legislative decisions and links. It also enables an instant communication channel with the CRA. Since the CRA has a complex and exceptionally dynamic mandate, a significant number of stations considered that the web page should be simplified. However, 14% of the stations do not use the web page and 5% are not familiar with its existence. A large portion (83%) of broadcasters have read the Annual Report and they believe it is useful and informative. In addition, 86% of the broadcasters attended Regional Advisory Panels organized by the CRA.

One can draw the conclusion that Bosnian and Herzegovinian broadcasters are generally very satisfied with work of the CRA, and that the CRA has brought a completely new quality to the development of standards in both audience and media based on the results of this survey and the previously noted improvement in the public’s interaction with the agency. The most important improvement was achieved in the segment of interaction and providing the CRA with new suggestions for improvement of their service for broadcasters. The willingness of the broadcasters to cooperate with the CRA is evident. The following requests were provided within the open ended question on suggestions for further improvement:

- More contacts and consultations in order to prevent broadcasters from sanctions,
- The Agency’s employees should visit media,
- Distributing a pamphlet with the list of the authorized distributors in B&H,
- Publishing and distributing a newsletter. (Results of the Survey of
  Broadcasters in BiH, 2003: How Satisfied are Broadcasters with the Work of
  the Communication Regulatory Agency, 2004, p. 3)

These suggestions highlighted both the importance of interaction and communication in
the process so far and the belief of broadcasters that things could be even better in those
areas.
CHAPTER 7
Telecommunications Regulations and European Integration

The media environment in B&H achieved significant improvement during the mandate of the IMC and CRA. However, the sectors of telecommunications and media represent an exceptionally important segment of European integration, which is a primary reason for the constant and dynamic restructuring, regulatory changes, and development of media compatibility in accordance with European media policy. This chapter will briefly present the existing barriers to B&H’s path to European integration and media reform that should be completed prior to negotiations about membership in the European Union. In addition, this chapter will focus on European standards for broadcasting, including some recent European initiatives in media regulations which should also contribute to the development of democratic standards in B&H, and discuss the lack of readiness among some highly positioned B&H politicians to see the implementation of more sophisticated norms such as the freedom of satire.

Bosnia and Herzegovina became a member of the Council of Europe on 24 April 2002 (Bosnia and Herzegovina and the Council of Europe, 2005). This was an important step toward integration with Europe, but just in defining the list of priorities for reforms that would eventually lead B&H to start the negotiations for the Association Agreement with the European Union (EU). However, even the most optimistic analysts do not believe that B&H will quickly achieve the high standards of the EU, primarily because of the disunited and underdeveloped economic space. According to a detailed study of the
International Monetary Fund (IMF), there are still numerous problems which need to be solved before B&H has the basic requirements for full EU membership. The IMF study provides a summary of the main obstacles on B&H’s way into the Union:

- barriers to inter state trade,
- administrative barriers to setting up and operating businesses (i.e. drawn out registration, high start–up cost, tax rates that are among the highest in Europe, inspections and corruption),
- the legal framework for bankruptcy has not been updated,
- the size of the gray economy (according to the World Bank, the gray economy accounts for 36 to 40 % of the country’s overall economy),
- judicial inefficiency in resolving commercial disputes and a weak legal framework protecting creditors,
- all factors above have greatly contributed to low foreign investments,
- other elements that discouraged foreign investments are comparatively expensive labor, insufficiently developed technology and among the highest rates of doing business (permits, electricity, postal services, etc.).


According to the same analysis, desirable improvements in the segment of media reforms are further privatization of public broadcasters on the communal and cantonal level (and not the entity and national level – PBS, RT RS and RTV FB&H), and improvements of infrastructure – primarily in modernization of the radio and TV signal transmission networks and digitalization of the RTV system. Furthermore, the study
affirms the further role of media in raising the awareness of the public about protecting the environment, fighting against corruption, and full gender equality. Media should also meet the public demands for more independent and unbiased information and ensure self-sustainability. Further expectations are for better integration of RT RS and RTV FB&H capabilities towards stronger National Public Service. PBS should also achieve better program production capacities, modernize the equipment for all-day programming, and advance the technical infrastructure in order to cover the entire territory of B&H. An especially important problem that the B&H institutions have to solve is the problem of collecting subscription fees. Current needs for the modernization of the transmitting network in B&H are approximately EUR 20 million. (Bosnia and Herzegovina: Poverty Reduction Strategy Paper — Mid-Term Development Strategy, 2004, p. 7–299).

Generally, the IMF study gives high credit for the engagement of the CRA in regulating the B&H media environment and providing fair market conditions. “Within the broadcast media sector, the CRA has achieved significant progress and has to a large extent managed to regulate this market. In the second half of 2002, there was a significant increase in availability of cable TV services in some of the larger cities, mainly as a result of private initiative” (Bosnia and Herzegovina: Poverty Reduction Strategy Paper — Mid-Term Development Strategy, 2004, p. 263). The author of the IMC’s White Book, a Senior Policy Advisor to the Communications Regulatory Agency until May 2002, Canadian media expert Stan Markotich, confirms that the IMF credits the work of the CRA. He said that “the CRA is now, or really ought to be, a partner in broader European
media policy, and policy development” (Markotich, individual email correspondence, May 11 2005).

Two more recent confirmations for the successful work of the CRA, and proof that the CRA is really becoming a partner in European media policy, came from the Council of Europe’s Media Expert Group (MEG), and the European Platform of Regulatory Authorities (EPRA). The Council of Europe’s MEG appointed Dunja Mijatovic, director of the CRA’s Broadcasting Division, as the Chairperson of the MEG during the first session of the MEG that “deals with issues related to freedom of expression and information in times of crisis” (Odobasic, 2005). The conference was held on April 25 and 26, 2005, in Strasbourg. Another recognition came from the EPRA—an association of regulatory authorities from 39 European countries—which selected Sarajevo as the conference site on the occasion of 10\textsuperscript{th} anniversary of the EPRA, May 12–13, 2005 (Odobasic, 2005).

As a member of the Council of Europe, B&H is among 46 countries which signed the Declaration of Freedom of Political Debate in the Media (DFPDM), in February 2004. That Declaration was originated and developed from the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECPHR), Article 10 which affirms right to freedom of expression, and the Declaration on the Freedom of Expression and Information from 1982. This DFPDM goes beyond the simple right of the public to be informed on matters of public concerns, to ensure transparency of political bodies. This declaration draws special attention to the following principles:

I. Freedom of expression and information through the media

II. Freedom to criticize the state or public institutions
III. Public debate and scrutiny of political figures

IV. Public scrutiny of public officials

V. Freedom of satire

VI. Reputation of political figures and public officials – Political figures should not enjoy greater protection of their reputation and other rights than other individuals.

VII. Privacy of political figures and public officials – Private life and family life of political figures and public officials should be protected, if it is not of direct public concern.

VIII. Remedies against violations by the media – politicians and public officials should have access just to those legal remedies against the media which private individuals have in case of violations of their rights by the media. Damages and fines for defamation or insult must bear a reasonable relationship of proportionality to the violation of the rights or reputation of others… Defamation or insult by the media should not lead to imprisonment. (Declaration on Freedom of Political Debate in the Media, 2004, p. 1–5)

There is a significant effort of CRA to disseminate, promote and make available this Declaration and other documents which affirms freedom of expression and debate.

During the 7th Ministerial Conference on Mass Media in Kiev (Ukraine), organized by the Council of Europe in March 2005, the importance of a politically and financially independent regulatory authority was emphasized within Resolution No. 2 of the Political Declaration. All 46 members of the Council were obliged to develop sustainable public broadcast systems and to enable cultural diversity and media pluralism.
The CRA received strong affirmation within the resolution of the high standards of their activities within the B&H media and telecommunications environment (Importance of Independent Regulatory Authority Stressed in Kiev, 2005, p. 1).

Moreover, the Kiev Declaration emphasized the importance of “de– politicization of broadcasting regulators and broadcasters, a solution to the ‘identity crisis’ that public service broadcasting is experiencing in Europe, increased transparency of media ownership and further restrictions on the concentration of media ownership” (EUMAP, 2005, p 1). The declaration also emphasized the importance of “improving professional journalistic standards and practices, and public participation in the adoption of media policy and monitoring of broadcasting” (EUMAP, 2005, p. 1).

The main document within the European regulatory framework is the EU’s Television Without Frontiers directive (TVWF). According to the European Audiovisual Policy, the audio–visual sector employs approximately one million people in the European Union, and plays an important role in social and cultural life. Furthermore, 98% of European households own at least one TV set, and the average European watches 200 minutes of TV programming per day (Introduction to Audiovisual Policy, 2005). The Treaty on European Union entered into force on November 1, 1993, making a “specific reference to the audiovisual sector: it provides that the Community shall encourage co–operation between Member States and, if necessary, supplement their action” (footnote added) (Introduction to Audiovisual Policy, 2005). The cornerstone of the common European audio–visual policy was set in 1984. After the appearance of DBS, the European deficit with the US in audio–visual trade drastically increased, which

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74 Formerly known as European Community (EC) or European Economic Community (EEC)
75 Direct Broadcast Satellite
“prompted initiatives on the part of the Community institutions in 1984. The Commission presented a Green Paper on the establishment of a Common market in broadcasting” (Introduction to Audiovisual Policy, 2005). The main approach of the new document was in the “realization of an effective single market for broadcasting and aiming at protecting minors from access to harmful audiovisual content; creation of a support mechanism at an European level to complement the systems existing at a national level, and defense of European cultural interests in the context of the World Trade Organization” (Introduction to Audiovisual Policy, 2005).

The Television Without Frontiers directive was adopted on October 3, 1989, and amended on June 30, 1997, by the European Parliament. The TVWF establishes “the legal frame of reference for the free movement of television broadcasting services in the Union in order to promote the development of a European market in broadcasting and related activities, such as television advertising and the production of audiovisual programmes” (Regulatory Framework, 2004). Discussions about amending the original directive of 1989 were initiated in 1995, motivated by fast changes in the market. These changes included technological development, the introduction of new rules related to advertising and Tele-shopping, the need for better protection of children from violent and adult content, free access to major events and unencrypted broadcast, and amending the current Members’ legislation taking into account increasing the number of TV stations (The New "Television Without Frontiers” Directive, 2000).

76 Each of the Member States will be entitled to draw up a list of events which have to be broadcast unencrypted even if exclusive rights have been bought by pay-television channels (The New "Television Without Frontiers” Directive, 2000).
In general, the TVWF directive was not intended to be an alternative for the national media regulatory legislation, but rather the document for coordination of the media legislation of the EU member states. Since the EU represents a conglomeration of different languages and cultural heritages, national regulatory bodies are still responsible for more detailed and stricter regulations in the domain of telecommunications, broadcasting and distribution of spectrum, content standards and preservation of their cultural heritage. This directive also sets a certain number of minimum rules for TV advertising, prohibits all television advertising which promote cigarettes and alcohol directly or indirectly, prohibits advertising of medicinal products available only by prescription, and introduces rules that would “protect the physical, mental and moral development of minors in programs and in television advertising” (Consolidated Text, 1997, p. 5). In that sense, the TVWF directive sets the minimum standards for a unique European audiovisual market, and guarantees freedom of transmission in broadcasting over the EU.

In short, the TVWF directive suggests that all EU member states “shall ensure freedom of reception and shall not restrict retransmissions on their territory of television broadcast from other Member States” (Consolidated Text, 1997, p. 7). However, Member States may provisionally derogate this rule if programs coming from another state contain any “incitement to hatred on grounds of race, sex, religion or nationality” (Consolidated Text, 1997, p. 14). Furthermore, the TVWF directive requires new television sets to be equipped with a technical device enabling filtering of certain programs, setting up of an appropriate rating system, encouraging other viewing policies and awareness measures, and taking into account all relevant experiences and interested parties (Consolidated Text,
1997, p. 14). The Directive requires at least 10% of broadcasters’ transmission time and budget “for European Works created by producers who are independent of broadcaster” and those works should be transmitted within five years of their production (Consolidated Text, 1997, p. 9). The Directive emphasizes informational, educational, cultural and entertainment responsibilities of broadcasters to their public. According to the TWF “news and current affairs programs may not be sponsored” (Consolidated Text, 1997, p. 12). Furthermore, any “natural or legal entity… that have been damaged by any assertion of incorrect facts in a television program must have a right to reply or equivalent remedies… within a reasonable time subsequent to the request being substantiated” (Consolidated Text, 1997, p. 14).

However formally willing they may be to sign European documents, declarations and integrations, a majority of Bosnian politicians are still not ready to see implementation in practice. During the last decade the media environment was disciplined in the manner of serving political elites and developed within three ethnocentric frames. A significant number of managers, editors and journalists are still influenced by political centers and only a few are challenging expectations of the political establishment. The most popular TV comedy show in former Yugoslavia Top Lista Nadrealista (TLN) or “Top List of Surrealists,” had certain elements of sharp political criticism, grotesque skits and satire even in their first season in 1986. During the second and third season, they were criticizing the political monopoly of the LCY and the expansion of ethnocentrism. Some members of the TLN gathered recently and produced a special show for the 2005 New Year’s Eve. That show contained impersonations of the

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77 An intriguing aspect of the TVWF is that term “market” occurs 8 times within the text, “audience” just once and the “public” 21 times.
three members of the Presidency of B&H, played by the TLN comedians. Humorous and satirical genres, which were allowed even before the first democratic elections, were harshly criticized by the Bosniak’s member of the Presidency and president of the SDA party, Sulejman Tihic, after the broadcast on TV FB&H. The editor–in–chief of the respectable weekly political magazine B&H Dani (B&H Days) commented:

I have to admit that I was slightly surprised with the TLN’s appearance on public TV. That was quite a reminder of a marvelous time, but I was not expecting that the contemporary version of TLN and their performance would produce such rage, bitterness and anger presented by Member Tihic. It seems that I was naïve to believe (or I was mislead in my education), that a democratic government – different from the previous one – does not determine and edit TV programs, but does the best for the well–being of citizens, better tax policy, employment, implementation of technical and technological improvements and other benefits and advantages. Even the former Central Committee of the LCY, however dark in political sense it was, did not examine party membership and ideological suitability of rebellious musicians and actors. (Selimbegovic, 2005, p. 3)

This most recent example reveals the continued misunderstanding of the independent Public Radio and TV service in Bosnia, and the continuation of the conflict among the TV FB&H and the highest ranked politicians. The Sarajevo–based daily newspaper Dnevni Avaz (Daily News) published a story about Tihic’s discontent. He said that PBS TV had not offered him a long interview since he became a member of the Presidency, and that he was not satisfied with including just parts of his statements (in

78 The author of the comment refers to the previous communist government.
their reporting) because they do not reflect the heart of the matter. The member of the Bosnian Presidency, who is also the President of the Bosniaks’ ethno–national Party SDA (Party of Democratic Action), admitted that he was invited several times to debate shows on Bosnian PBS, but he explained: “since they call me to participate in shows which are aired at 10 p.m. or later, that is not suitable for me, neither methodologically nor by time, because if I go there I should argue with other participants in conversation. Actually I believe that there is no real info–TV show on PBS, and those debate TV shows does not provide an opportunity to participants to complete his thoughts” (Malagic, 2005).
CHAPTER 8
Conclusions and Recommendations

The main purpose of this study was to provide insight into the history and
development of the Communication Regulatory Agency in Bosnia and Herzegovina from
1998 to 2005. This study focuses on the regulation of broadcast segments and the most
important aspects within it. However, the study is not intended to be a homage to the
actions of the international community in the Bosnian media environment. Rather, it is an
analysis of several different stages in the evolution of the broadcast segment of the
regulatory agency, where the international community played a crucial role in framing
the concept of free and independent media regulatory policy. The intent of this study was
to provide the most objective overview of the political, social and cultural situation, by
obtaining the most relevant and accurate information.

8.1. Conclusions

All relevant media and electronic communications laws and decisions were
imposed by the office of the High Representative (OHR) in Bosnia and Herzegovina
(B&H). They are not product of the political consensus; they are rather product of the
broad peace intervention in B&H.

The Independent Media Commission (IMC) successfully performed Phase One
and Phase Two of licensing, and evolved from counting the number of media outlets
(literally – finding out what is out there – what consist the B&H media reality), to the
application of the high media standards (in the relatively short time). A transition from
the IMC to the Communication Regulatory Agency (CRA) was very successful.
One of the most important achievements is that the CRA has sole responsibility over the whole territory (responsibility to regulate B&H media environment regardless of ethnonational divisions). With this achievement the CRA was successful in:

- Establishing a clear set of norms, rules and standards; they defined the distinctions between private and public broadcasters, licensing policy, programming content, standards in advertising and consistent implementation.
- Preventing media concentration and defining 13 geographic areas (or regions of signal coverage) – areas of broadcast service.
- Making a tremendous achievement in the protection of copyrights. B&H is a country where the copyrights norms and laws have been massively violated.
- Establish cooperation with the broadcasters, instead of acting as the “power above”.
- Establish a positive image with the public (or the audience). Participation of the public—common citizens—in the process of the media environment regulations is increasing. In 2004, 70% of all complaints were addressed from citizens, which means that people trust the CRA.
- Creating a solid base for the development of the fair and competitive media environment, although the CRA cannot provide more advertising money and more investment into media. The media market is highly dependent on the level of the overall economic development.

Public Broadcast Service (PBS) was established under the pressure of the International Community in B&H and not as a product of highly developed need for serving the public
interest (since B&H is country without the rich public broadcast service history).

During the socialist time B&H had a state broadcast service. However, the ethnocentric political tendencies in B&H are still opposing the integration and strengthening of the national PBS. They support the idea of final division of the PBS into three ethno-national channels. Local political forces are also constantly resisting the application of high democratic standards in media regulations.

However, the number of breaches of rules and regulations has a declining trend from year 2000 to the present. The Hate language nearly vanished from the B&H media, but the most recent examples are serving as evidence that tendencies to misuse the media outlets still exists in B&H.

One of the most important issues in countries with established and competitive media markets is the power and influence of the media lobbies. These lobbies work for the industry in imposing their claims in the segment of media ownership. The PR officer of the CRA, Amela Odobasic said:

it is not necessary to lobby for changing some of the rules. Specifically, we work transparently and we have a partnership with broadcasters. We have meetings with their representatives on a regular basis and it is absolutely impossible to change any of our rules without informing them. We offer every proposal of a new rule for public consultations, and all interested parties are welcome to submit their comments. Some of those comments are constructive and useful and some are not. Our point of view is that the rules are primarily affecting broadcasters, and we are providing them with a chance for active participation in decision
making. However, we never neglect our jurisdictions, or mandates as a regulatory agency, and we never let lobbies manipulate us. Anyways, it is never just about one person’s decision, instead the primary interest of the community is our main concern. (personal email correspondence, Odobasic, May 17 2005)

Since corruption seized the B&H society, which was discussed and illustrated in previous chapters, Odobasic was asked to answer if CRA employees can accept the gifts from media representatives, or if media eventually can pay for participation at conferences or vacations. Odobasic states that the CRA’s employees can receive a present, but every present which costs more than KM 100 (approximately $65) has to be announced and registered. However, it is known that we are not corrupt nor bribable. If certain media want to pay the costs of conferences for some of our representatives we can accept it, but, we are always careful about the conflict of interests. Vacations cannot be taken in consideration. One interesting detail that I would like to present to you is that after we sanctioned TV Alfa for the hate language, I was an invited guest to the most popular weekly News Magazine on TV Hayat. In the polemic part of this magazine called ”Face to Face,” I had a chance to discuss this issue with the person involved in something that we considered hate language and anti–Semitism. My opponent was arguing that he was just quoting verses from the Qur’an and trying to convince the audience that the fine is draconian and unjustified. Suddenly, my opponent offered me a book of Qur’an as a present, in front of cameras, during the live show. I was absolutely reluctant to receive that present, and I told him to send it by mail to my CRA address published on the web
Odobasic was also asked to explain the claims of the Sarajevo weekly magazine, *Slobodna Bosna*, that the Director General of the CRA had to give in under the pressure of media mogul, Fahrudin Radonicic, and change the rules on limitations of ownership. Odobasic says:

changes of those rules is occurring all over Europe, even in Italy, although the media market is stable and incomparable with the Bosnian market. We know that those changes produced certain polemics and reactions, but we did not consider ownership of one print media and one broadcaster which covers one zone (out of 13 in B&H) to be a monopoly. It is true that *Dnevni Avaz* as a print media bought *TV Alfa*, but they will also have to respect the rules and codes issued by the CRA. I believe that numerous barriers for achieving a media monopoly still exist, and we just tried to open the market and open some space for the competition.

(personal email correspondence, Odobasic, May 17 2005)

The CRA accomplished tremendous success in applying the Compliance with Copyright Obligations document. During and after the war, in the early post DPA years, it was quite common to watch blockbuster movies on the local stations, and many broadcasters (mainly communal and cantonal) were simply disregarding the fact that they were breaking international laws. From 1998 to 2001, the IMC’s Enforcement Panel

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79 owner of the daily newspaper *Dnevni Avaz*
issued twenty–one decisions related to the breaches of copyright rules. According to Odobasic, recently:

The compliance with the copyright rules does not represent an issue any more, since the serious breaches of the Copyright Obligations almost disappeared. There are two reasons for this: the first one is in sanctions and financial fines, no doubt, but the second one is maybe even more important – competing organizations keep an eye on other stations’ schedule and programming and they report if there are breaches of copyright. It is theoretically impossible to drastically breach the current copyright rules. (personal email correspondence, Odobasic, May 17 2005)

The CRA made significant accomplishments in communicating and interacting with the public, which had a positive effect on their image in the public’s eyes. At the beginning, people were suspicious and the majority of complaints came from political organizations and institutions. Odobasic made a comment on that important achievement:

Two years ago we had a successful campaign called How to Make a Complaint, and we are planning to renew it soon. We are very pleased that 70% of the total complaints are addressed from common citizens. Politicians are mainly complaining on individual reports and TV stories about them, but even the “hard–core complainers” respect when we decide that there are no elements for opening the case, based on their complaint. The Public Relations Office pays special attention to the development of trust with the public. We always have certain
media activities to remind the public of their rights to address their complaints about the programming of electronic media. From my personal experience, working for the IMC—later CRA—since its inception, every single person is equally important. Since the “word of mouth” in Bosnia is a miraculous communication tool and traditional forms of close ties with the neighbors are still present, it is worthy of our time and energy investment to promote a positive image of the CRA. (personal email correspondence, Odobasic, May 17 2005)

Certain Bosnian politicians recently misused the Parliament and asked citizens to refuse paying the subscription fees to the public services because their engagement in public policy was criticized. Since this is an illegal activity, one can be curious whether the CRA can do anything to prevent further damage to PBS. Odobasic states that the CRA uses every opportunity to remind citizens of their legal obligation to pay the subscription fees. She says that the CRA:

cannot intervene with the editorial policy of public media; because we are just regulators and we cannot interfere or influence the content. It is important to remember that we do not have the role of policy makers [any more]. Although we can be a partner or a consultant in the process of policy making, we just implement the laws. (personal email correspondence, Odobasic, May 17 2005)

Findings that were laid out throughout this study suggest that although the CRA has done much for the reconciliation of the B&H society, there is still much to accomplish in this country besides the media regulations. However, there is a general
impression that B&H cannot make the further progress towards integration to the European Union with the government comprised by the representatives of ethnocentric political parties. Those political parties are still influencing media environment through the political and economic pressure. Furthermore, existing Entities of Republika Srpska and Federation of Bosnia and Herzegovina (with its complex structure of ten cantons) are not just financial and administrative ballast, but the main obstacles in democratic integration of the country because of three irreconcilable political agendas embodied in the SDS, SDA and HDZ. This can be illustrated with the initiative of the HDZ representatives to further divide the PBS system into three exclusive ethno–national services, or with the open calls from the parliament speaking platform sent by some Bosniaks’ political hawks, for refusal to pay the legally prescribed broadcast tax. Denial of B&H, misuse of media in Republika Srpska and the “segregated education and the continued nationalist propaganda” has resulted in “almost 75% of the students to perceive the Republika Srpska as a sovereign entity that should either declare its independence or become part of Serbia” (Friedman, 2004, p. 124). However, there are few main lessons from the process of the establishment of the independent media regulatory body in B&H as the transitional country heavily influenced by ethnocentric agendas.

The first one is that media reforms and democratic norms cannot be accomplished if they are just declared and monitored by the agency without the power to enforce regulatory and legal instruments (OSCE). In contrast to the OSCE’s Media Experts Commission, the CRA has the authority to be successful by applying the wide set of
programming and licensing rules, interacting with the broadcasters and the public, and enforcing the rules and sanctions. However, the media reforms are not happening in a vacuum, and they cannot be isolated from the complex environment and influences of other social forces. Furthermore, the political forces in B&H were always trying to achieve their influence on the media. Therefore, an immediate intervention in the segment of regulation was crucial for preventing the “verbal war” and the extension of the conflict on media field, where hate language was still massively used. The Dayton Peace Accord did not include a specific plan for media reforms, which was probably a mistake, since there is a consensus among the media experts that the media played one of the key roles in the awaking of ethno-national antagonisms in B&H. Uncoordinated and late intervention in the B&H media environment gave the extension for misuse of media for almost 3 years after the DPA.

Another important lesson is in the necessity for better coordination of international efforts to improve a media environment in the post–conflict countries. Tremendous amount of money was spent by different NGO’s, governmental organizations, foundations and associations on the establishment of the alternative sources of news, and training programs for journalists and reporters in B&H. If their efforts were better coordinated, the achievements of the “media intervention” would be more efficient and the failures of very expensive media projects would be avoided.

The B&H media environment and public might have an advanced regulatory agency, which was established in accordance by the highest European democratic principles. However, it is important to emphasize that none of the key decisions related to
the establishment of the CRA, and electronic media related legislative, were brought
by the local political authorities. B&H still suffers from voting abstinence, lack of
alternative political and economic concepts, and its future development can be easily
interrupted by further ethnocentric isolationism. Presence of the international community
in the B&H political environment is still strong, and this study is just an attempt to
encourage discussion about the transition of media in B&H towards viable democratic
and open market economy.

8.2. Recommendations

The author of this study would like to open a discussion about all of the
inconsistencies of the international intervention in B&H, in both the peace making and
the stabilization processes in media. The author of the book *Triumph of the Lack of Will*,
James Gow,\(^{80}\) is just one of the Western analysts who provides a solid foundation for
critical examination of the international involvement in the former Yugoslavia’s crisis. In
this book he discusses and examines “how and why the United States, Britain, France and
Germany failed to cope with the collapse of Yugoslavia and its descent into a savage civil
war”. Gow also “demonstrates that lack of timing, bad judgment, poor cohesion, and
absence of political will over the use of force were fundamental reasons for this failure”
(Gow, 1997). One can examine the mistakes of the OHR and international media experts
engaged in B&H: Simon Hasellock, Chris Riley and John Shearer.

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\(^{80}\) James Gow is Professor of International Peace and Security at the King’s College in London, and Co-
Director of the International Peace and Security Programme, run jointly with the School of Law. Gow is
not the only author who criticizes the Western involvement in the Yugoslav crisis. For more information
see Biachini, Stefano and Forage, Paul (2004), The Future of Western Engagement in the Balkans, in
Reflections of the Balkan Wars: Ten Years After the Break Up of Yugoslavia, Morton, Jeffrey et. al. (eds.),
Palgrave MacMillan, NY.
An exploration of the failures of the OBN project and the failure to consult B&H media experts on a viable solution should be more thoroughly studied. According to Bratic (2005), the main problem with the OBN was that the station was perceived as a foreign project. The lack of sensitivity to local needs can be seen in the usage of English acronyms for the stations OBN and FERN, and also by the international groups ignoring local experts and media professionals during the process of media reconciliation (p. 229). Bratic cites two media professionals who offered serious suggestions to the members of the US team which came to B&H to establish the OBN. The first one was successful radio and TV producer Boro Kontic.

Back in mid–1996, I was sitting with the officials of Open Society in Bosnia, as a host to a group of foreign experts, who were on a mission to launch a new TV network then known as TV–IN, later to be called OBN. In reply to our persistent explanations of how much more logical it would be to develop the new system within the existing network TV transmitters, which had been being built for 50 years then, we were asked not to burden our guests with our frustration. (as cited in Bratic, 2005, p. 229)

Zoran Udovicic is another media professional who offered his full support at the beginning of the OBN project. Udovicic was the director of radio and television coverage of the XIV Winter Olympic Games in Sarajevo in 1984.

At the time of the visit, nine out of 12 people from the Olympic Bosnia Broadcast Team were still in Sarajevo. The head engineer, the main expert for networking, the head manager, the engineer who knew all the transmitters by heart because he built them, the man who built a system for 52 local radio and television stations
before the war, etc… None of these people were even consulted, let alone hired on the post–conflict rebuilding of neither media nor OBN. The foreign experts came to hear what was in place, and once they found out, they never came back. (as cited in Bratic, 2005, p. 230)

Furthermore, since the OBN was established just two weeks before the first postwar elections in B&H in 1996, Udovicic states that the international community was naïve in launching the OBN with hopes of eliminating the effects of long standing propaganda.

A second recommendation, an area to be further explored is the inconsistency in the treatment of those high media executives who manipulated public in B&H when compared to those who did the same thing in Rwanda. Many respectful Bosnian and Herzegovinian journalists would agree upon the fact that media activities in B&H before, during and after the war were not benign in comparison with the Rwandese “hate radio” RTLM. A local political analyst, Nidzara Ahmentasevic, questions why the masterminds of warmonger media activities in B&H are rewarded with higher positions after the war, when the Rwandese journalists Ferdinando Nahiman\(^{81}\), and Hasan Ngeze\(^{82}\) were sentenced to a life in prison after their trial in December 2003.

For example, Dragan Bozanic was the editor in chief of S Kanal (S Channel), better known as TV Pale, famous for its hate language and massive use of derogatory terms for Bosniaks. S Kanal was under the strong influence of the SDS political party during and after the war, never accepting the international recognition of B&H and referring to Bosnia and Herzegovina as “so called”, “former” and “artificial and unviable as multiethnic society” (Ahmetasevic, 2003, p. 45–47). It is indisputable that the TV

\(^{81}\) the founder of the famous “hate radio-television station” RTLM
\(^{82}\) the owner and editor in chief of extremist newspaper Kangura
report broadcast after the fall of the Northeast Bosnian town Srebrenica, at the station where Bozanic was the editor contained the most terrifying examples of hate language and even invitations for committing the acts of genocide. “Snjezan Lalovic was Bozanic’s journalist who followed the Army of Republika Srpska in July 1995, and he broadcast the TV report containing the command of the high ranked officer of the Army of Republika Srpska: ‘kill them all’” (Ahmetasevic, 2003, p. 46). The same TV station broadcast the call of Ratko Mladic, the general commander of the Army of Republika Srpska after his forces entered Srebrenica. Mladic faced the camera and said clearly “It is time to take revenge on the Turks in this region” (Ahmetasevic, 2003, p. 46).

A more in–depth study of telecommunications services and newer communication technologies in B&H and their impact on the social environment would be interesting way to extend this study, since it was focused on the broadcast segment exclusively. The establishment and the role of the Press Council in B&H as well as the establishment and the activities of the Deputy Ombudsman on media in B&H should be examined.
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APPENDIX A
The Important Social and Political Factors Leading up to 1980’s

During the second stage, from 1954 until 1974, the firm LCY control over media remained, but that was the time of separating from the Soviet model and “searching for a proper role amid society’s doomed effort to implement economic and political reform” (Kurspahic, 2002, p. 6). The third stage brought more courage and hopes in the dynamics of the Yugoslav socialist system and lasted from 1974 until 1980. Constitutional changes gave more scope in the possibility of individual development of each federal unit, even in the sphere of social, cultural and media activities. Yugoslav media had to “adhere to a loyal party line during the period of decentralization, when the republics strengthen their control over all spheres of life including the media” (Kurspahic, 2002, p. 6).

A comprehensive study of media regulations in the SFRY by Gertrude Joch Robinson provides insight into Article 6 of Yugoslav Press Law which “denied the right of becoming a publisher, editor, or journalist to all those not enjoying political or civil rights and those who had collaborated with ‘fascist’ or ultranationalist organizations such as Chetniks and Ustasha” (footnotes added) (Robinson, 1977, p. 19). All information was filtered and chief editors were appointed by the Central Committee of the LCY. The Telegraph Agency of New Yugoslavia (TANJUG) was established as official news agency, and individual or independent

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83 Serbian military units commanded by royalist Army colonel, Draza Mihajlovic, “an arm of the Serbian quisling regime” (Malcolm, 1994, p. 177). Name was based on the First World War veterans’ movement, and the ideology of the “Cetniks” was based on the memorandum “Homogenous Serbia”, by Dragisa Vasic (politician from Serbia) and Stevan Moljevic (lawyer from Bosnia). The goal of the movement remained “to create and organize a homogenous Serbia, which must include all ethnic territory inhabited by Serbs” (Malcolm, 1994, p. 178)

84 Military units of “Independent State of Croatia” (NDH) proclaimed by Germany and Italy on April 10, 1941. Commander of Ustasha militia and the Fuehrer of NDH was Ante Pavelic, whose marionette fascist government passed series of “anti-Jewish laws, and later state laws on citizenship, racial identity and on ‘the protection of Arian blood and the honor of the Croatian people’” (Malcolm, 1994, p. 174-175).
reporting did not exist. After the break up with Stalin, Tito’s government opened a prison labor camp called the Bare Island\textsuperscript{85} for all political opponents. (Kurspahic, 2002, p. 7–8).

Thousands of innocents and young people suffered imprisonment on the Bare Island without chance for a fair and objective court trial, just because they expressed doubt or minor verbal disagreement with the “novel transfer culture, which came to be known to the world as ‘Titoism’” (Robinson, 1977, p. 26). Even for prominent communist activists it was enough to just publicly express a minor doubt\textsuperscript{86} about Tito’s concept to be imprisoned on the Bare Island. This pattern was designed by the LCY in response to three immediate needs: “the stimulation of its stagnating economy, the protection of Yugoslavia’s sovereignty, and the safeguarding of its unique political heritage” (Robinson, 1977, p. 26). The main characteristics of “Titoism” were: modification of the “command economy”\textsuperscript{87} and elimination of autocratic features of the state bureaucracy, social self–management where all workers are equal in managing organization and collective ownership. The Yugoslavian version of the socialist ideology, however, did allow neither state nor private ownership in industry, commerce and media. Just small workshop, some services, specific retail stores and restaurants were exceptions. Media in the former Yugoslavia was founded by the Socialist Alliance of Working People of Yugoslavia (SSRN):

\begin{itemize}
\item Bare Island (Goli Otok): Whole island in Adriatic Sea was officially transferred into a high-security prison in 1949 by the authorities of LCY. It was used to incarcerate political prisoners, notably the Stalinists, after Yugoslavian President Tito split up with the Soviets and Stalin, until 1956. After the year of 1956, it was mainly used for nationalists, and later for common criminals and even some juvenile delinquents. The prison inmates were forced to do heavy labor in a stone quarry, regardless of the weather conditions: in the summer it was at 35-40C, while in the winter they were subjected to the chilling Adriatic wind. Inmates were also regularly beaten and humiliated. The prison was abolished in 1988, and completely abandoned in 1989. (Goli Otok, 2005).
\item For better understanding see: “When father was away on business”, by Kusturica, Emir (1985).
\item Command economy represents the “form of economy characterized by rigid central planning and regulation by the state, generally associated with states espousing Communism” (Hickey, 2005).
\end{itemize}
The Socialist Alliance of Working People of Yugoslavia (SSRN), formerly the People’s Front, was the largest and most influential mass organization in Yugoslavia from 1945 through 1990. In 1990 its membership was thirteen million, including most of the adult population of the country. The political purpose of this national organization, sponsored by the LCY, was to involve as many people as possible in activities on the party agenda, without the restrictions and negative connotations of direct party control. The SSRN also was chartered as a national arbitration forum for competing, cross-regional interests. Although party officials were forbidden to hold simultaneous office in SSRN, the top echelon of the latter was dominated by established party members. The importance of SSRN to the party leadership increased as the party’s direct control over social and state institutions decreased. (Yugoslavia: The Socialist Alliance of Working People, 1990)

The Socialist Self Management model represented the most specific difference between so called “socialism with a human face” which was developed in Yugoslavia, and the Soviet model. The idea was to follow Marx’s idea of empowering people and avoid the Soviet model of state ownership. The main characteristics of the model was nominal equality of all workers in decision making, based on the Marxist idea of “withering away of the state,” and assumption that participation would overcome alienation. Basically, the property had no titular owner and the mission of the company was to serve the needs of the society as a whole. Very few companies belonged to the state and the LCY formally had no property besides office space (Yugoslavia: Launching Self-Management, 1990).
APPENDIX B

President Tito’s Perception of the Freedom and Independency of the Press

Although Yugoslavia’s National News Agency (TANJUG) was not the exclusive source of news any more, and daily newspapers started to develop their own networks of correspondents all over the world, media content was still strictly regulated. Certain levels of freedom achieved in international reporting and heavy criticism of the Stalin model of socialism did not have the equivalent freedom in covering and debating domestic issues. During the 7th Congress of the LCY in 1958 President Tito himself gave a speech and once more confirmed rigid ideological regulations of press freedom:

During our country’s revolutionary period of transition, the press cannot be considered an independent and autonomous factor in society, since all actions of society as a whole must converge towards one aim: the construction of Socialism. The press is responsible before society for correctly informing the public and educating public opinion in a Socialist sense, but it does not have the function of interpreting social events and the most important issues of foreign policy independently and without regard to responsible social institutions. There still are journalists who have the wrong idea about the freedom and independency of the press here. (as cited in Robinson, 1977, p. 33)
APPENDIX C
The Important Legal Factors Leading to the Limitations of the Freedom of the Press in Socialist Yugoslavia

Furthermore, the decentralization and liberalization of media that the Yugoslav Constitution of 1974 brought did not change the basic perception of freedom. Article 166 of the Constitution of 1974 guaranteed “freedom of the press and other media information and public expression, freedom of association, freedom of speech and public expression, freedom of meeting and other public assemblage” (Thompson, p. 9, 1999). Furthermore, Article 203 of the Constitution stated:

No one may use the freedom and rights established by the present Constitution in order to disrupt the foundations of the socialist self-management democratic order…, to endanger the independence of the country, violate the freedoms and rights of man and the citizen…, endanger peace and equality in international co-operation, stir up national, racial, or religious hatred or intolerance or abet commission of criminal offences, nor may these freedoms be used in way which offends public morals. (Thompson, 1999, p. 9)

In addition, the legislation, specifically the Federal Criminal Code, has also abounded with examples of vaguely defined articles. The most significant and the most famous one – Article 133 – was not just the instrument of censorship and direct attack on media freedom, but also a powerful instrument in creating and maintaining borders of self-censorship. For proper understanding of this rigid law and its consequences, Article 133 has to be quoted integrally:
(1) Whoever by means of an article, leaflet, drawing, speech or in some other way advocates or incites the overthrow of the power of the working class and the working people, the unconstitutional change of the socialist social system of self–management, the disruption of the brotherhood, unity and equality of the nations and nationalities, the overthrow of the bodies of social self–management and government or their executive agencies, resistance to the decisions of relevant government and self–management bodies which are important for the protection and development of socialist self–management relations, the security and defense of the country, or whoever maliciously and untruthfully portrays socio–political conditions of the country – shall be sentenced to a term of imprisonment raging from one to ten years.

(2) Whoever commits an offence mentioned in Paragraph (1) of this Article with assistance from abroad or influence by people abroad, shall be punished by imprisonment for at least three years.

(3) Whoever sends or infiltrates agitators or propaganda material into the territory of the SFRY in order to commit an offence mentioned in Paragraph (1) of this article shall be punished by imprisonment for at least one year.

(4) Whoever produces or duplicates hostile propaganda material with the intention to distribute it, or whoever has such materials in his possession knowing that is intended for dissemination, shall be punished by imprisonment for at least six months and not more than five years” (as cited in Thompson, p. 10–11, 1999).
Hundreds of people in Yugoslavia received sentences from one to fifteen years for violating Article 133. Some were high-profile dissidents who later became political leaders. Among them the most famous are: the former president of Croatia, Dr. Franjo Tudjman; Dr. Vojislav Seselj, the former president of the Serb Radical Party, currently indicted for war crimes and imprisoned in the Hague; the first president of the Presidency of Bosnia and Herzegovina, Alija Izetbegovic, and many others.

Furthermore, Thompson provides a list of acts of the Criminal Code which heavily influenced media environment. All of those articles “could be invoked against the written or spoken word. Articles 116 and 117 specified sentences of at least five years and at least one year respectively for anyone who committed an act aimed at the secession of part of the SFRY, or at subjugating the SFRY to another state” (Thompson, 1999, p. 11). Article 157 incriminated defamation of “SFRY, its flag, coat of arms, or anthem, its highest organs or their representatives, its armed forces or their commander in chief” (Thompson, 1999, p. 11). In addition, defamation of foreign states, symbols and leaders was also prohibited by the Criminal Code. In addition the “person and work of Josip Broz–Tito were protected by law from criticism” (Thompson, 1999, p. 11).

Although the institution of pre-publication censorship, which earlier required two copies of every publication before the publishing, was banned, the primary focuses of the public prosecutor were students’ media, movies, literary and religious periodicals. Many movies were concealed during the 1970s. The illustrative examples for the movies’ censorship are: the movies of the Belgrade director Dusan Makavejev

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88 International Criminal Tribunal for the former Yugoslavia (ICTY, 2005)
“Sex, the Party Enemy No. 1”, and “Mysteries of Organism”, movies of the Bosnian director Bato Cengic who was the first to dissect power and corruption under communism in the movie “The Role Of My Family in the World Revolution” from 1971 (Second Annual Bosnian Film Festival in NY, 2005). Some authors were imprisoned for a long jail sentences, like Lazar Stojanovic, movie director from Belgrade for the movie “Plastic Jesus”. 
APPENDIX D
The Important Background Information about the Position of Sarajevo Radio-TV as a Member of the Yugoslav Radio-TV Network

According to Goran Milic, the most popular TV Belgrade news editor before the 1990s events, back in the 1980s and early 1990s, during the time of JRT, 52 weeks of programming in year were defined as following: TVZG and TVBG would take approximately 15 weeks each, TVSA 11 weeks, TVNS seven, and TVTG four (Thompson, p. 16, 1999). A discrepancy among the media centers in the SFRY became obvious during the 1980s after President Tito’s death. The concept of the Sunday prime time JRT news was that each TV center contributes one report. Milic witnessed the controversies over the republic’s leadership trying to present their own priorities within the most watched TV news in Yugoslavia. The most significant change happened in 1988, when Serbian leadership started the process of canceling Kosovo and Vojvodina autonomy, “changing the leadership in Montenegro, TV Novi Sad, and turning TV Pristina and TV Titograd into mouthpieces of TV Belgrade, itself a mouthpiece of the Milosevic’s government” (Thompson, 1999, p. 19).

Specifically, the TV reports from Kosovo, after Milosevic’s political turn out were made by a tough nationalist correspondent from TVBG, and not by the TV Pristina Serbo–Croatian language news editorial staff. Biased TV reports from Kosovo were the main reason for withdrawal of the Zagreb and Ljubljana TV centers from the JRT Network, and the withdrawal of TVSA that followed. Coordination remained just in segments of movies, culture and sport. “What we had at the beginning of 1990, was eight
TV stations in which four worked as one, directed from one centre, and four others each covered its own territory” (Thompson, 1999, p. 19); since Milosevic’s regime took over autonomous status from Vojvodina and Kosovo, the RTV centers mentioned by Thompson are: Novi Sad, Pristina, Titograd\(^89\) and Belgrade.

An intriguing analysis of early signs of nationalism in SFRY was made by Gertrude Joch Robinson, within the thorough examination of the communications and mass–media regulatory policy in the SFRY. Back in the 1970s when the study was done, Robinson noticed three pieces of evidence that supported ethnic specificity in the content of Yugoslav media. The first one is in decentralization of the Yugoslav media environment that resulted in programs containing 50% local news from the republic, and 50% national and international news. “Newspapers which are printed in distinctive languages and scripts, also tend to stress local news. Prime–time radio programming, popular satirical TV shows, local travelogs, and widely acclaimed folk music reflect regional humor and music tradition as different as the kolo\(^90\) and the polka” (Robinson, 1977, p. 191).

After the years of political, social and economic stagnation and marginalization, Bosnia and Herzegovina became a huge building site during the 1970s and 1980s. Constitutional changes from 1963 and 1974 made more individual development possible for each federal unit in every sphere of life. Furthermore, it is important to mention that just a few Bosnian authors and artists of different branches were influenced by the

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\(^{89}\) Titograd (Tito’s Town) is capital of Montenegro. From 1946 to 1992 the city was called Titograd after the Yugoslavian President Tito, what was officially changed to traditional name Podgorica in 1992.

\(^{90}\) “Kolo” is a collective folk dance, where a group of people (usually several dozen, at the very least three) hold each other by the hands or around the waist dancing, ideally in a circle, hence the name. There is almost no movement above the waist (Kolo – Dance, 2005).
Socrealism\textsuperscript{91} paradigm only for a short time after World War II. Most of them went away from soc–realism during the 1950s. This was internationally recognized when an outstanding artist from Bosnia, Ivo Andric was awarded with Nobel Prize for the novel “The Bridge on the Drina” in 1961. Soon after that, another Bosnian author Mehmed–Mesa Selimovic was nominated for the Nobel Prize in literature as well. Many Bosnian authors were encouraged by positive changes and affirmation of authentic BH culture and lingual specificities through the international recognitions and awards. Since the Bosnian language nuance was not recognized within the official Serbo–Croatian language spoken in 4 federal units, at all levels of the conflict, a constant theme was the question of language. During the first period, the Serbian language was almost completely dominant at all levels. The historian of language, Alija Isakovic, has convincingshown how the language of journalism and public communication was, from 1947–8 on, systematically Serbianized. The policy was enshrined in the 1954 Novi Sad Language Agreement. This agreement was drawn up under great pressure from Belgrade; no one from Sarajevo or anywhere else in Bosnia and Herzegovina was present at the meeting” (Lovrenovic, 2001, p. 186).

\textsuperscript{91}Socrealism or Socialist realism is a teleologically-oriented style of realistic art which has as its purpose the furtherance of the goals of socialism and communism. It is related to, but should not be confused with social realism. (Socialist realism, 2005)
APPENDIX E
Position of Bosnia and Herzegovina and Bosnian Muslims in the Former Yugoslav Federation

In this point it is necessary to briefly explain the specific situation of BH in the SFRY in the early years. Bosnia and Herzegovina was neglected in the Yugoslavian federation in the first two decades in the matter of industrialization, infrastructure, and economic and media development lagged behind Slovenia, Croatia and Serbia. According to Malcolm’s historical overview of BH, the Bosnian economy stagnated from 1953, when social per capita production fell from 79% of the Yugoslavian average, to 75% in 1957, and 69% in the early 1960s. “Out of all republics, Bosnia had the lowest rate of economic growth over the entire period 1952–68” (Malcolm, p. 202, 1994).

Bosnia and Herzegovina was not neglected just in the segments of industrial and economic development. One of the main confusions in a political sense was the national identity of Bosnian Muslims which was not defined by the Yugoslav Constitution. However, Bosnian Muslims, have constituted almost half of the Bosnian population, but “in the 1948 census the Muslims had three options: they could call themselves Muslim–Serbs, Muslim–Croats, or ‘Muslims, nationally undeclared’ or undetermined. This gave the Bosnian Muslims a chance to demonstrate just how reluctant they were to be Serbified or Croatized” (Malcolm, 197–198, 1994).
Soon after President Tito made a world famous political initiative with the Non–Aligned Movement, he needed better representation of Yugoslav Muslims. Religious life improved significantly after 1954, when Yugoslavian Parliament passed a law which allows religious practice, but the position of Yugoslav Muslims generally improved after the first Conference of Non–Aligned Movement in Belgrade in 1961. “The first sign of change came with the 1961 census, where people were allowed to call themselves ‘Muslim in the ethnic sense’. By the mid 1960’s there were prominent Bosnian Muslim diplomats serving in several Arab states and Indonesia, including the son of a former Reis ul–ulema” (Malcolm, 1994, p. 197–198).

The reestabishment of Muslim nationhood, political, cultural and religious recognition of Muslims has emancipated and encouraged people to open their horizons and turn BH around and significantly improve many aspects of life. The following improvement that gave more courage and hope in dynamic of Yugoslav socialist system was the new constitution which provides decentralization of the media environment.

92 “The first Conference of Non–Aligned Heads of State, at which 25 countries were represented, was convened at Belgrade in September 1961, largely through the initiative of Yugoslavian President Tito. He had expressed concern that an accelerating arms race might result in war between the Soviet Union and the USA” (The Non–Aligned Movement: Background Information, p. 1, 2001).
93 Reis ul–ulema is the head of the Islamic Religious Community in one country or one region
94 For more information on cultural emancipation of Bosnian society see: Lovrenovic, Ivan “Bosnia: A Cultural History” (2001).
APPENDIX F
How Historical Events Became More Important Than the Present

Soon after the Serbian leadership canceled Kosovo and Vojvodina autonomy “the past with its glorification of the Serbs’ struggle through the centuries and its emphasis on all the evil committed against them, was becoming even more important than the present for Serbian media” (Kurspahic, 2002, p. 52). As support for this statement Kurspahic provides an example of two female editors at TV Novi Sad who were suspended because they ran a report on the 175th anniversary of the Second Serb Uprising at the end of evening TV journal rather than placing it at the prominent position.

Furthermore the goal of the SANU’s “Memorandum” was to “prepare Serbs living outside Serbia for the redesign of Yugoslavia in a way that would finally ensure the Memorandum goal of all Serbs in a single state with the ‘Serb parts’ of neighboring Bosnia and Croatia incorporated into ‘Greater Serbia’” (Kurspahic, 2002, p. 52). The Government in Belgrade played the key role in the encouragement of creation the nationalist Serb Democratic Party (SDS), first in Croatia and later in Bosnia.95

APPENDIX G
The Responsibility of the Sarajevo Media in the Early 1990’s and the Consequences of the Media Misuse and Ethnonational Propaganda

The following examples support the position of Sarajevo’s media environment as the more responsible and not submissive to ethno national trends in the late 80’s and early 90’s. The Top Lista Nadrealista (TLN) or Top List of Surrealists, was the most successful politically engaged comedy show in the former Yugoslavia ever. The show was made by a multiethnic group of very talented young actors and rock and roll musicians, in manner and the form of BBC’s famous Monty Python’s Flying Circus. Through the sketch comedy, the TLN group heavily criticized retrograde political trends of nationalism, mediocrity and manipulation through the finest satirical approach. As the Yugoslav RTV system used to work as a decentralized pool, the fourth season of Top Lista Nadrealista was canceled by the TV centers in Belgrade and Zagreb because of heavy criticism of the ethno–nationalistic tendencies, and broadcast just within the transmitters system of TV Sarajevo. The same thing happened to YUTEL news. That TV news program was first broadcasted with a delay of few hours, usually in late fringe around 1 AM, and soon it was canceled both in Belgrade and in Zagreb after the editorial showed no tendencies to serve any regime or political idea, but principles of objectivity and public interest.

Regardless of all media attempts in Bosnia and Herzegovina to prevent an eruption of ethno–nationalistic feelings, the mobilization of ethnic groups and retrograde political trends spread by the Serbian and Croatian media took place. Trends, which were
not promising to the future of Bosnia, were directed from Belgrade and Zagreb radicalized the most dangerous processes that were about to bring chaos to multiethnic mixed republic Bosnia and Herzegovina.

The first multi-political party elections in BH in November 1990 were a triumph of ethno-national movements and rather an ethno-national census than free will elections. Those movements were not actually political parties, because they lacked characteristics of the political parties such as a persistent concept of development, an economic plan for the future of the country, and a plan for transition and future in European integrative processes. Three political movements formed a coalition and won the elections on all levels, except in a few municipalities where Party of Reformists and Social–Democrats won. During the election campaigns, national political parties even tied up the ethnic flags but just a few months after the true face of ethno-nationalism erupted, making political consensus and compromises even upon the simple issues impossible.

A speech of Radovan Karadzic, leader of Bosnian Serbs and president of the SDS during the lengthy session of Bosnian Parliament displayed this incompatibility. In October 1991, the Parliamentary representatives debated the option of Bosnian independence, which was energetically rejected by the SDS representatives. Referring to Bosnia opting for independency, Karadzic said: “This might lead Bosnia into a hell and Muslim people to disappearance… In a case of war in Bosnia Muslim people cannot defend themselves” (Kurspahic, 2002, p. 97).

After the referendum on independence in 1992 the majority of Bosnians who voted for independence believed in international law and institutions. They also believed
that Europe would never tolerate bloodbath on its soil after the Holocaust that happened during World War II. Professor Norman Cigar from the Marine Corps Academy in Quantico – Virginia, explains the nature of the war against Bosnia in his book “Genocide in Bosnia”:

Genocide—or ethnic cleansing, as it has been commonly known—that befell the Muslims of Bosnia–Herzegovina was not simply the unintentional and unfortunate by–product of combat or civil war. Rather, it was a rational policy, the direct and planned consequence of conscious policy decisions taken by the Serbian establishment in Serbia and Bosnia–Herzegovina. This policy was implemented in a deliberate and systematic manner as part of broader strategy intended to achieve a well–defined, concrete, political objective, namely, the creation of expanded, ethnically pure Greater Serbia” (Cigar, 1995, p. 23).

Indeed, the European Union has formed the Badinter’s Commission96 – committee composed of international law experts authorized by the European Union. The role of that Commission was to give the official European position on eventual former Yugoslav republics independence, to supervise referendums on independence, and to give an answer on which borders the EU should recognize in case Yugoslav republics decide to declare independence. The Badinter’s Commission has confirmed unchangeable borders of former Yugoslav republics defined in 1943.

96 “After further widespread violence in Croatia, the European Community announced on 27 August 1990 that it was establishing both a Peace Conference on Yugoslavia and an Arbitration Commission comprising five Presidents from among the various Constitutional Courts of the EC countries. The Arbitration Commission became known as the Badinter Commission after the name of the French lawyer appointed as its president” (Rich, p. 40, 1994).
Previously mentioned, the idea of a small Muslim ghetto–state became a political reality in interpretation of the SDA, underhandedly promoted, but never officially admitted. Former leader of the SDA and the first President of independent BH, Alija Izetbegovic underlined his position:

I have repeated like a parrot, not only repeated but acted accordingly: ‘We want to set up a secular republic here in Bosnia and Herzegovina.’ No Islamic or Muslim republic is possible in Bosnia–Herzegovina… We were offered a [reduced] Muslim republic. I could have gotten that easily had I prolonged negotiations with Milosevic and Tudjman instead of breaking them off… But I know very well that would not be acceptable solution for Bosnia–Herzegovina (Cigar, 1995, p. 178).
APPENDIX H

The Main Obstacles for the Development of the Bosnian Market

Foreign investments in 2002 amounted to just KM\(^7\) 320 million, or just 3% of the national GDP, placing Bosnia at the bottom of the European list of countries to invest, just before Ukraine, Serbia and Montenegro. During the period 1994–2002, foreign investments amounts 840 million KM. The “gray economy”\(^8\) still exists; it is estimated currently between 20 and 30% of the total labor force. Public debt amounts to more than 80% of the GDP, while two–thirds of that amount represents foreign debt. Bosnia and Herzegovina should build approximately 750 kilometers of modern highways, in order to reach the average European level in traffic and transportation development. According to Dizdarevic\(^9\), the whole economic system is still disintegrated and it is impossible to establish a long–term development strategy. Political instability, legal insecurity and the weakness of a disintegrated market and economy, along with complicated administrative procedures and the low level of business ethics makes Bosnia an unattractive environment for serious business investments.

Rigid political divisions and difficulties in implementation of the political entities’ (FBH and RS) constitutional changes in the segments of law, political procedures, trade,

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\(^7\) Bosnian currency – Konvertibilna Marka (KM) or Convertible Mark. Stable in last ten years because it was based first on German Mark and later on Euro. 1 Euro = 1.95 KM; $1 = 1.5 KM

\(^8\) “Gray economy” in BH represents the informal economic sector of thousands of unregistered workers, illegal enterprises or illegal activities, evading paying taxes, health insurance for workers etc.

\(^9\) Srdjan Dizdarevic is founder and President of the Helsinki Committee for Human Rights in Bosnia and Herzegovina, President of the Managing Board of the Human Rights House of Sarajevo and Vice President of the International Helsinki Federation. He prepared the resume of discussion among ten highest authorities in Bosnian academic environment. Ten university professors, political scientists, economists, lawyers and NGO representatives have discussed during the 2004 about the situation in Bosnia and Herzegovina 8 years after the DPA was signed and the war was stopped. The most accurate sources, data and insights characterize this discussion.
financial flows and even mental barriers still represent major obstacles for developing a free and integrated Bosnian market. A high degree of discrimination is still present in the field of employment. A labor force flow almost does not exist, and the labor markets are not welcoming those from other regions, or those of other ethnicities. During the war, more than one million people were displaced or evicted from their properties. Discrimination and low availability of employment represent major obstacles for the process of returning. The development of local production and the use of plentiful natural sources that Bosnia has are totally neglected. The Bosnian economy’s ratio of exports and import is disastrous. For every value of $4 that Bosnia imports from abroad, the country exports just $1.
APPENDIX I
The First Big Success of the International Community in Integrating the Bosnian and Herzegovinian Civil Environment

After the military intervention of NATO forces against Bosnian Serb troops in the fall of 1995, and the ending of war operations, international peace implementation forces of some 60,000 soldiers under the NATO command were stationed in BH in the first months of 1996. They were in charge of implementation of military aspects of the DPA. One of the first successful interventions of the international community in integrating the BH civil environment was the establishment of the Central Bank of BH (CBBH) in August 1997. Before the CBBH was established, five currencies were in use in BH, and the state did not have a central monetary institution. In the case of the CBBH, the role of the international community in BH went far beyond the consultative and administrative level. The first Governor of the CBBH was a monetary expert from New Zealand, Peter Nichol. As a former Executive Director on the Board of the World Bank in Washington D.C., he was appointed Governor of the CBBH by the international community in Bosnia and he remained in that function until 2003. The main goals and tasks of the Central Bank of Bosnia and Herzegovina are to “maintain monetary stability by issuing domestic currency according to the Currency Board arrangement (1 Convertible Mark (KM) = 0.51129 EURO) with full coverage in freely convertible foreign exchange funds under fixed exchange rate 1 KM: 0.51129 EURO” (About CBBH, 100

100 Bosnian Dinars, Croatian Kunas, Yugoslav Dinars, Dinar of Republika Srpska and the German Mark.  
101 Peter Nichol remained the member of the Governing Board at the CBBH (www.cbbh.ba). Steven Hanke, professor at the Johns Hopkins University and one of the leading world currency experts is another international who participated in the creation of the Bosnian monetary policy. Currently professor Hanke is working on stabilization of the Iraqi currency (Small, 2003)
Due to the consistent policy of the CBBH the exchange rate of newly established BH currency remained the same until the current time.

Encouraged by the successful establishment of the CBBH which implemented a new currency and introduced the first steps towards the monetary integration in the whole territory of BH, the international community was ready for the next step: integration of the media environment based on universal democratic standards. In the report of the European Stability Initiative it was stated that BH needed:

- the establishment of strong, autonomous agencies at the state level to regulate the telecommunications and energy industries. These would have power to issue licenses for the use of common networks (communications transmitters, electricity transmission grids) and to attach conditions to those licenses, including ensuring that service providers comply with the principles of a common market, and that they are financially transparent. International involvement in these regulatory agencies should go beyond mere consulting, and they must be designed and developed in such a way that they are able to operate without improper political interference, and to attract and retain Bosnian and international technical expertise (Taking on the Commanding Heights, p. 2, 2000).
APPENDIX J
Maintaining the Political Influence on Cantonal Public Broadcasters

Another relevant example for the statement on SDA’s and HDZ’s maneuvers involves the Tuzla Canton’s public Radio TV service: Radio Televizija Tuzlanskog Kantona (RTV TK), established in 1993. Major investments in a new transmitter network in the region of Northeast BH, equipment and a modern ENG truck for live coverage for this TV can be traced from 1998. Besides the capital investments, RTV TK draws around 900,000 KM (approximately $ 600,000) annually from the cantonal public budget (Tuzlanski kanton, 2005). According to Osmancevic, the previous year’s subsidies for RTV TK amounted to approximately KM 1 million annually and they were reduced during the last year. Osmancevic states that although the future of RTV TK, as the future of the Cantonal organization of the whole Federation of BH is unpredictable and can be the matter of transformation, the Government and the Parliament of the Tuzla Canton invested more than KM 300, 000 in the reconstruction of the new building” (Osmancevic, email correspondence, 2005).

However, extensive political influence and self–censorship of news editors and editors–in–chief on controversial political issues is still present in both municipal and cantonal media. Many of them still demonstrate the loyalty to the political establishment, which does not improve the development of journalistic standards and a democratic environment.
APPENDIX K
Current Organizational Structure of the Communication Regulatory Agency

Figure K.1. Current organizational structure of the Communication Regulatory Agency
Private TV PINK BH, now leads with 30.36% (EURO 4.332 million), followed by the privatized OBN with 23.11% (EURO 3.298 million). Public RTV FBH had 19.86% (EURO 2.834 million), private NTV HAYAT had 8.02% (EURO 1.144 million), network MREZA+\textsuperscript{102} had 6.74% (EURO 0.961 million), PBS BH had 6.07% (EURO 0.866 million) and RTV RS had 5.83% (EURO 0.832 million) (MIB, March 2005, p. 4).

\textsuperscript{102} Established in 1996 by 5 TV stations, MREZA+ currently covers 85% of BH territory and has 5 additional affiliates. They broadcast news, popular American, Mexican and Spanish serials, sport and other entertainment programs.