



Foto RTVE.

Digital Television Scenarios

## Quality contents in the new audiovisual structure

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The analysis of the analogue blackout in Spain and of its result in terms of economic and power structures shows that under a technological pretext a Neoliberal counter-reform, that entails threats to public service, cultural diversity and ideological pluralism, has been created.

Keywords: Digital Terrestrial Television (DTT), Public Service, Audiovisual policy, Audiovisual contents, Regional Television

El análisis del apagón analógico de la televisión en España y de su resultado en términos de estructura económica y de poder evidencia que bajo el pretexto tecnológico se ha operado una contrarreforma neoliberal que lleva consigo graves amenazas para el servicio público, para la diversidad cultural y el pluralismo ideológico.

Palabras clave: Televisión Digital Terrestre (TDT), Servicio Público, Política Audiovisual, Contenidos audiovisuales, Televisión Regional

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THE LINK BETWEEN THESE two variables, television structures and offered contents, has been a close constant feature throughout the entire history of television. The first as well as the second have been articulated in turn in an unseparable weaving between regulation (political) and competency (economy) between State and market. This happened in the U.S. Foundational model, when the anti trust regulation that for decades kept the networks under control of most of the broadcasters and demanded high production quotas for independent production in prime time hours that led to a large degree the genres and formats, time strategies and the diminishing role played by innovation. And an even more outstanding feature is the initial European model for public television, in which the concept of the national role played by public television pedagogical, po-



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litical, social and cultural determined its programming for decades (Bustamante 1999).

Remembering these obvious things is not a useless exercise in an era in which the most important decisions are usually determined by economic laws, when they are not simply judged to be technological demands. And it is of transcendental importance to analyse the digital transitions of the television system in recent years in each region or country, frequently done with common technical standards and even regionally shared rules (such as the European Union), but with substantially different structural results, even between neighbouring countries. Delimited by intensive political and regulatory decisions, which concentrate in short time spans the measures that had been taking place in short time spans during decades, even with a higher pressure capacity of economic powers, digitalization has been the chance for the States to implant their most relevant options in television systems that attempt to constitute, at least ideally, new stable bases for a medium to long term period (Bustamante 2008).

Never before did this feature of television shine as much as now being Economy-Politics: beneath the dressing of modern technology, under the umbrella of pluralism, the generalized promise of universal access to the Society of Information, on the supposed neutrality of the switching between two technologies, key decisions are adopted between the different courses that have always been a feature of television policies. Thus, the balances are re-established or rather not so balanced between public and private elements, between central and regional or local, between publicity and pay per view by the user, between competitiveness or oligopoly, between distribution and production, between the citizen and the consumer. It had never been so obvious that de-regulation is usually a counter-synonym of the elimination of laws and regulations, even coherent with legislative hyper activity of the States, with a proliferation of rules geared preferentially towards the economy and the total market.

As an equally obvious parenthesis, it is necessary to underscore that in the history of Cultural Industries, Governments always aspire to totally determine reality in the long term, whereas the transformation of the social uses and technologies that enable it and interact with them, frequently frustrate such ambitions of eternity. Discounting the fact that economy itself has its laws that are not so foreseeable usually and frequently escape political determinations and the interests of the lobbies present in them.

Beyond these precautions, the digital transition of television in Spain can be perceived as a case book of these processes, as a genuine experimental laboratory developed and apparently consumed in the short time span of five years. Thus the public-private paths organized to propitiate the analogical black out and the deep structural changes propitiated by that trajectory acquire, beyond the official discourse arguments, all its potential as a revealer of the forces present and the settings shaped by political and economic powers. Without punctual references to the economic crisis being understood to be nothing more than secondary factors and to a large degree justified by decisional processes that precede it and surpass it. Added to this, the consequences can be examined that these structural determinators pour into television contents, programming strategies, programs, links between propagators-producers that finally affect the viewers directly as citizens and users in an identity that is difficult to isolate (Bustamante 2008).

The official balance sheet carried out by the Ministry of Industry and the SETSI (State's Secretary for the Information Society) on the analogic black-out has presented in a triumphant way the achievement of digital transition, although the absolute failure of it is forgotten in regional and local private frequencies. Consequently, the "TDT. Final 2010 Report" concludes the process has ended successfully (Impulsa TDT, 2010). However, as we wrote in the Prologue of the book of the Second CONTD workshop, "what is being determined in sum is not the happy end of a technological achievement, the expansion and generalization of digital television, but rather the basic contribution that these new networks can do to affect the industry, pluralism, the economy and democracy of Spanish society. What will be examined in sum in future encounters, is if these potentialities of the television medium are used to advantage or if, as the long history of errors and failures of the Spanish audiovisual media could lead to forecast, we are on the road to a new frustrated encounter with history" (Bustamante 2009; Francés 2009).

### 1. Reformation and counter-reformation of the central public service (RTVE)

A note as a brief reminder, it is necessary to remember that the reformation of the public and audiovisual service in its entirety was a capital issue in the voting campaign of Rodríguez Zapatero at the head of the PSOE in 2004. After the incapacity displayed by all the Spanish governments since the transition to democratize and give a coherent regulation to the sector, after eight years of conservative and patched regulations of the Aznar governments which strengthened in a subreptitious way the private pole and bringing RTVE to ruin (loss of prestige in information, extreme marketing, financial bankruptcy) the new socialist government presented itself to be a firm regenerator of the public space and at the same time a new modern way of fulfilling its promises to back and make the analogical blackout take place sooner.

The immediate nomination of the Council for the Reform of public title state media and the legal projects passed on the base of its Report, underscored the seriousness of this commitment. Thus the law of 17/2006 of the 5<sup>th</sup> of June on public state radio and television was formalized which implied a leap in quality with respect to the complete history of RTVE on its inheritance as a regime television (Franco) yet also on the model as a partisan and disoriented model that it became after democracy reached the country during another quarter of a century (as of the Statute of 1980). The Government, above all, accepted cutting the umbilical cord that linked it to RTVE and its positions of privilege, of power and manipulation. With a strict definition of the public service and its missions in framework mandates and program contracts, RTVE was gaining a distinctive singularity that made it socially legitimate. After the millions in debt it had were assumed by the government (this debt was of over 7.500 million Euros), a mixed yet transparent financial model that fitted in with the European doctrine, enabled a sustainable economy, dominated by public subsidy and complemented by controlled and regressive commercial financing (one minute less of publicity/hour each year during a four year period compensated by the State as ceasing profiting) (Bustamante 2006).

This is not the most suitable place to carry out a detailed balance of the successes and failures of the state public service since then. But it is neces-





sary to point out that the model proved its success in the main parameters: in the unusual information independence it achieved, the unprecedented initial consensus of the political parties involved, in its healthy financial state, in the start of its opening out to internet, in recovery if not leadership in audience ratings. And however, in 2009 the Government imposed as urgent a radical change in the RTVE financial model stating that it was perfecting its financial independence. This is a complete turnaround that smells like a counter reformation. Yet really this 360 degree turn already had eloquent indicators preceding it since 2005.

In the first place there was a decision to not grant more than five channels in TDT to RTVE, in spite of the fact that the reform Council had informed since 2005 to both the Communications State Secretariat as well as the Information Society that it considered that the 8 programs were an indispensable springboard for RTVE to lead the digital transition. Most of the entrepreneurial entities and consumer groups also stated that at that time they wanted two complete multiples. Although this apparently did not appear to be linked to the settings of the future, the imposition of a savage ERE (force adjustment plan, more than four thousand employees were dismissed), loudly opposed by the Council in its Report due to discriminatory and irrational criteria by age) by the president of the SEPI (Sociedad Estatal de Participaciones Industriales), Martínez Robles, backed by the Minister of the Treasury, Pedro Solbes, also revealed that within the core of the Government a prevalence was taking place by those preferring, without much conscience of what the public service was, a RTVE that was cheap and with little social consistency.

Paralysation of the basic projects passed by the Minister Councils and favourably underlined by the State Council, the General Audiovisual Law and the Law of the Council of Audiovisual Media, were wishing for many years a citizens debate and periodically called for by all the parliament oppositions, was however the signal that the regenerative backing had lost steam before it even got off the ground. Surely because of frontal opposition by mediatic groups shown against these projects, including groups close to the Government which still wanted an unregulated and chaotic system in which competitive capacity and benefits were being measured according to favouritism, complicity or simply omissions of political power

After three years of paralysis, the urgent law decree no. 8/2009 of the 28<sup>th</sup> of August (State Bulletin of 31-8-2009) was the ostentatious signal that the time for a counter reform had arrived. Apparently it was just a matter of prohibiting publicity, patronage or television sales since the beginning of 2010 to guarantee "economic independence" for RTVE and achieve perfection of a model that would "enable stable existence and co-habitation" with the private sector. To enable this the financing of RTVE was made to depend, besides budget subsidies, of part of a canon per use of the frequencies plus a tax on the invoicing of private open and pay channels besides incomes of operators of telecommunications that offered audiovisual services.

As opposed to the officialistic mythology surrounding the BBC model, it could be debated that the true underlying philosophy beneath this regulation and its intrinsic dangers: for example, dependence by its competitors that (it led to which) did not seem to be the best way to insure economic independence of the public service, or how stable and pacific co existence was supposed to happen and which would only be possible if all the publicity incomes of RTVE were moved to commercial private channels, which is far



from being secure because in another case the private agents would continue their predatory aim directed to shrinking the audiences of the public sector (the genuine profitable resource); Unforeseeable elements of a model lacking a genuine financial memory, which could threaten the financial situation of RTVE at any moment, or simply the difficult weaving of these new taxes with the European doctrine, as shown by the files opened in Brussels immediately afterwards, whose negative decree, above all if it affected the tax rate imposed on telecommunications operators, the majority, would open up a severe crisis, with almost irreparable consequences in a time of strong public debt for the economy of the public service.

Beyond these debates, generally geared around the radical elimination of publicity, the decree of 2009 is much more explicit in its intentions: along with legal reinforcement of costly missions of the public sector, as opposed to the obligation of filling the vacant spaces caused by the absence of publicity (over 8.000 minutes per year) and that of feeding three new digital programs, imposes draconian limits to the capacity of RTVE to maintain its public influence: practically freezing its expense budget until 2014, minimal ceiling of resources dedicated to hiring sports broadcastings, Malthusian reduction in the premiere showings of feature films hired from "large international production companies" and generic prohibitions of "over bidding" or "over costing" in program purchasing. Maximum symbolic rhetoric, due to its uselessness, directed to the private channels, in the decree the Government prohibits itself to grant over 25 per cent of the state frequencies to the public service, right after lowering their percentage from 50 to 25 per cent (of two chains out of four to two multiples of eight).

It will be necessary to wait for some time to go by before appreciating the devastating consequences of this rigid corset on RTVE and the public service in Spain. For the time being, its embarrassing exit of the shareholders of Euronews (carried out during the presidency of Luis Fernández), substituted by Turkey to save a little over two million euros per year, one must add the voices of alarm of the new President, Alberto Oliart and his demands of new funds to shore up the fitting in of the public service into the Society of Information, and all of this without counting on the reduction in star programs for Channel 2, fused with Canal Cultura, the difficult accommodation of the over 300 employees of the publicity department, the dismantling of the marketing department that also aided sale of programs and rights, today almost paralysed, the impossibility of avoiding commercial patronage and product placement in a market of programs that includes this as part of its essence (see agreement of the 30<sup>th</sup> of September of the Board of Administration: "Transition Model: Criteria for application of the financial law of CRTVE"). An extreme and pathetic case, we have contemplated a series on the history of publicity in Spain in which producers made an effort in the impossible attempt to avoid vision of the brands that financed and incarnated the advertising.

This speeded up word for word and radical pattern taken up from the Sarkozy model meant, however, a curious import: A socialist government copied an ostentatiously right wing government in the "final solution" of the public service, including a tricky wink at the perfect model of the BBC and the extreme pureness of the public service. But, as sometimes happens when importing technological domestic prototypes, the user's manual lacked proper translation.

A recent work published in France by the renowned researcher in communications, Pierre Musso (dean in Rennes, successor of Armand Mat-





telart in this position) can offer us notable hints. He analyses (Musso, P. 2009) what he calls “sarkoberlusconism”, a new Mediterranean model of politics and television and its complex articulations: Berlusconi comes into politics through television, Sarkozy on the other hand arrives at television from politics, especially since he was Minister of Communications in the Chirac government. Both, however, from opposing histories, cultivate telepolitics, based on private channels, on “neo-television” whose neutrality they proclaim as opposed to suspicious public radio and television. The doctrinal connexion, at any rate, is much more perverse as it is based on a neo liberal neo politics which, far from demanding less State, revitalises the state role as entrepreneurial, the Company-Nation at the service of the “national champions” in the private sectors, the large groups capable of defending the national flag in global competence and consequently making the Presidents acquire a dominant character as great managers.

Beyond confusing allegations to the BBC or the myths and left wing programs of France twenty years ago, Musso dives into the roots of the thought that have truly upheld the Copé report and the television reform of Sarkozy, both through the works of his main advisors in this field as well as those of the presidential speeches on television. Especially notable are the writings by Alain Minc (Minc. A 1982) and José Frèches (Frèches J. 1986), in which the philosophical basics of the Sarkozy reformation are explained and anticipated: a pure pedagogic role in state radio and television, subordinated once again to be “the voice of France” (like in the times of De Gaulle) and thus with directives named and controlled by the government; functions of pluralism in the hands of private chains whose groups must be enhanced in their size to defend the “national colours” (cultural, or economic?) in world competitors. This implies re-thinking the narrow limits of the public service and eliminating obstacles (anti monopoly regulation, obligations with production, films, viewers) of private actors, removing obstacles to expansion of its marketing power.

The Berlusconi model has different nuances but a unity in goals with colleague Sarkozy. Here also, without changing laws, the RAI will suffer a backward movement in democracy for decades with delegitimization and intromissions of the First Minister himself who however praises the neutrality of Mediaset –his own channels– and will back consolidation of absolute dominance on the digital stage, including the new pay market through the use of de-codifiers subsidized by the State.

Yet, coming back to Spain and its blind import of artifacts, it is interesting to examine this other ghost “user’s manual” that affects the large private chains; and which complements and clarifies the implicit message on public radio and television, because as stated by Musso, the Sarko-berlusconian model has another transcendental leg to stand on, a second de-regulation geared to reinforce the market rules for private chains.

## **2. Private television: an unsustainable system that opens out to savage de-regulation**

As in decisions for public television, the new private system has its past rooted in seriously erroneous political decisions adopted in 2005. Then, after the “mediatic war” unleashed by the government to increase the number of private channels, opposed to the authorisation of open broadcasting by Canal Plus and the new appearance of the Sexta channel, made to be an example in the press conference of the Press Association of Madrid (15<sup>th</sup> of

February), the Government negotiated the “digital truce” on the base of an “equity” concession of three digital programs for each classical digital chain and two additional programs to each new digital chain: in total, 15 commercial digital channels which, along with the five that RTVE would have will total 20 state programs. Worse yet, the Government anticipates and binds in an unusual way its decisions for the future and promises that, after the digital transition, each private chain will have a complete multiple with four programs that, along with the eight that RTVE would have, would total 32 digital state programs plus those foreseen for each autonomous region (at least 8) and the over 1.200 local ones. Promises that will be confirmed in the Royal Decree 365/2010 of the 26<sup>th</sup> of March, for assignation of the TDT multiples after the stopping of analogical broadcasting.

Warnings and alarms that went off from those moments were multiple, even in the euphoric climate generated between the private channels. From multiple instances that are independent, a warning was that for several years such a television system would be non viable, even without any crisis looming ahead (Bustamante 2008). And that this structure, compromised beforehand due to anticipated promises along with the absence of a genuine audiovisual authority that would be independent, threatened keeping out of control the obligations assumed by private licenses at the same time as it could frustrate all the promises of diversity, quality and services for the society of Information in the digital transition. For several years, those responsible disparaged and even criticized those independent opinions, accusing them of “breaking the faith” of the analogical blackout. But in 2009 and 2010 the Government implicitly recognised the frustration of its previous policy and propitiated the worst possible remedy: a savage and out of control de-regulation of the audiovisual market which led the Spanish television system to a loss of balance in favour of the private sector and towards a narrow oligopoly in this sector.

In the first place, and after systematic criticism of the de-regulation by means of sweeping under the carpet the state budgets used by the Aznar governments, the PSOE ruling party creates a regulation as an urgent need that would be turned into Law 7/2009 for urgent matters in telecommunications, which argues for the need to maintain “transparency and pluralism in the television market” yet also the “financial viability” of private television, to dismantle the already scarce existing anti-concentration regulation that prohibited simultaneous actions in two concessions of above five per cent. By permitting the fusion between channels which did not surpass 27 per cent of the audience (during the previous twelve months), with the sole limitations of three private operators in the state area of operation and eight digital programs, an unmistakable message was launched pro concentration, and an implicit proclamation was made of failure of its attempts to introduce higher ideological and entrepreneurial plurality in the television system, as the candidates of the absorption were precisely the two authorised channels under its mandate, Four and Six. The goal sought in opening television plurality and enhancing “progressive” channels was forgotten thus benefiting economic reality.

The future panorama for open commercial television in Spain back stepped to its origins between 1990 and 2005, with two presumable operators in the open space controlling the private market with an iron fist. After the roundabout way inaugurated by the Aznar Government, with direct concessions made to his political friends (Vevo TV for El Mundo-Recoletos and Net TV for Vocento), after the attempts by the Zapatero





Government with the polemical opening of the La Sexta channel granted to his friends of Mediapro and Globomedia, the story went back to its beginnings. With the worsening aggravation that, in the digital setting, each one of those ruling operators would have two multiples and eight programs as of April 2010; and the historic curiosity of contemplating a duopoly reinforced and dominated by two non Spanish groups (Mediaset and D'Agostini), in an unusual situation in Western Europe in which television goes hand in hand with national sovereignty. Two groups thus difficult to imagine as champions of national culture or Spanish economy and as opposed to the remaining private state operators or regional or local operators would not be anything less than marginal in the television market.

The General Audiovisual Law, (Law 7/2010 of the 31<sup>st</sup> of March), has confirmed the worst forecasts of this counter reformation when designing a brusque and radical de-regulation which in many aspects surpasses the liberalisation of the French or Italian private chains. An unmistakable package of gifts to the large private groups that severely block the future of the Spanish audiovisual system (Bustamante 2010a):

- a. The indirect management of an "essentially public service" is reconverted now into services of "economic" general interest". The concessions consequently are transformed into licenses.
- b. The private licenses, renovated already in 2000 (renovated every ten years) are extended to fifteen years and are defined as "automatic" extensions apart from serious faults. Such an unlimited automatic license granting in a public property such as the hertzian spectrum, which is reminiscent of the lack of care of the suspended Televisa Law of Mexico (licenses granted for eternity), has been also pointed out by the Competency Court as contrary to European doctrine as it impedes free competency in the future. Besides this, it permits leasing the licenses after two years of their concession in fifty per cent of the frequencies although further leasing are prohibited.
- c. The obligation to invest 5 percent of annual invoicing in unique works (films, documentaries, television series) expands to all fictional formats. The only legal precaution is to destine 60 per cent of that investment in unit works (3 percent of the invoicing) coming from the European Union of which only 50 per cent (1,5 per cent) is obligatory for independent production. A measure that was being requested by Telecinco above all, in its frontal rejection of all public service of private television.
- d. The legal reading carried out of the latest European Directive for audiovisual services (2007/65/CE) previously called television with no frontiers, was radically de-regulatory in the LGA pre-project and maintains its neo-liberal character in the final law, much more so than the interpretation carried out in the remaining European countries: to the 12 minutes per hour of authorized direct publicity an additional three minutes of tele promotion, without counting on self promotion, indirect publicity without limitations (sponsorship, product placement) nor telesales. A saturation as strong as this not only goes against user's rights but also the publicity market itself.



e. As in the decree on the new financial model for RTVE, in which a reference is made to the “beneficiaries” of the elimination of publicity in public service, the LGA uses a heretofore new terminology in audiovisual regulatory tradition: the private chains thus have the “right” to publicity, sponsorship, tele promotions, product placement. They also have the “right” to self regulation, passing codes that would later be demandable and compulsory (unthinkable therefore) In such a way that the competencies of the Board of Audiovisual Media (CEMA) not to mention audiovisual (cultural content in all media) are cut off, with no real attributes in private licensing, limited to unfulfillment cases that are severe or very severe.



### 3.-Digital proximity television: regional and local, public and private

The situation of autonomous RTV in the 21<sup>st</sup> century has been quite still and inert in general in view of the reformations that reached state audiovisual sectors. Excluded from the report of the Council for the Reformation of 2005 and the subsequent legislation on RTVE (2006), it has hardly been affected by even the General Audiovisual Law project which was passed in March of 2010 in Parliament, under which in its title IV on public service, only foresees a higher precision in the definition of public service and the accounting separation to be dealt with by the Regional Governments to “normatively, for their area of competence determine the financing of their public service in audiovisual communications” as long as this is compatible with the regulation on competencies.

Only just a minority of the Autonomous Regions have undertaken the regeneration of their public services in radio and television. Among these cases outstanding ones are those of Catalonia which in 2007 passed a new law for the Corporación Catalana de Radio y Televisión (Catalonian Corporation for Radio and Television) (BOPC 136, 08-10-2007), with strong de-governmental regulation with the nomination of its general manager and its board of directors (Consell de Govern) elected by the Parliament by two thirds of its members and for a six year mandate, and with the signature of a program-contract and an assumption of the pending debt (1.046 million Euros). However, the later nomination of its directors by the Parliament was very polemical when the CAC (2008) report, the unions and press declared that the distribution of the designations by political party quotas had been done detrimentally affecting legal provisions on their experience and professional competency.

Equally, Andalusia created a new Law for Radio and Television (BOPA 780, 14-12-2007) creating the Agency for Public Enterprise for Radio and TV in Andalusia with 15 members of the board of directors chosen by the Parliament as well as its president, by a majority of three fifths. And later passed a commercial code committing itself to self-limit its publicity in quantities and formulas (October 2009). But the new General Manager has been elected without the votes of the PP party, for a six year duration. In Asturias on the other hand, and after a legal reformation, the General Manager was chosen by a very large parliamentary consensus.

In recent years there has been more conflict in the cases of other regional radio televisions that have seen their attempts to reform frustrated one way or another. In Galicia, for example the two party Government repeatedly promised a law that would make the government have less of a hold on TVG without this being passed during the past legislation. With the arrival of the López Feijoo Government there, accusations of manipulation have



been repeated and the vindication of the opposition of a “grand pact” to reform the public service have taken place. In the Balearic islands a similar situation in the change of Government, the Consell, has announced a new law for public Radio and Television but extended the sub-contracts in 2008 to IB3 for 90 per cent of its programming without touching the model plan.

A separate mention should be made of the extreme cases of public televisions of Madrid or Valencia, which are object of unceasing and ferocious polemics for the past decade and which have in common the explicit project of the Partido Popular Governments to privatise them almost entirely, impossible today because of legal imperatives. In Madrid, in the context of the crumbling in its audience markets and its financial bankruptcy, the direction of the protests have been carried out by the workers and their unions themselves with reports that proved systematic manipulation of the media (Union Study Foundation 2007, Union Section of RTVM 2008) and several strikes that have had a lot of followers and demands presented in court and even the European Parliament against information manipulation (2006). In Valencia the RTVV has been at the heart of all the accusations of manipulation for years now and has been closely tied to the Gürtel case in recent times via the figure of its ex General Manager.

At any rate, the national opposition press and lobbies of large media groups have not stopped criticising the permanence and adaptation of the regional television and radio broadcasters, especially attacking their transition and digital growth. expansion Yet another version of the offensive launched by UTECA (Union of Private Televisions) against regional public televisions and which has rained on them due to their attempt to attract publicity –in spite of the sparseness of this and its decrease– after the elimination of commercial messages in TVE.

In sum, digitalisation of the wavelengths has not contributed in improving but rather dramatically worsening the democratic deficit that we analysed in another recent text with respect to the Spanish autonomous regions that bring them back to the Seventies, the years of the democratic transition (Bustamante 2010b).

#### **4.-Digital transition: a new form of cronyism of those in power**

The already endemic suspicion about concessions of private radio in Spain, (Franquet 2002), has grown to gigantic proportions with the expansion of the responsibilities in granting private concessions now overlapping into the area of regional and local television. Effectively, with the arrival of autonomous private television, a new figure arrives in the Spanish scenario, whose structure depends on the will of regional governments. One must add to this source of influence the total recomposition of the mapping of local television, also subjected to a forced transition, at least theoretical, towards the digital world, as the digital TVL plan is geared around the concept of “local scope”, based on the technical coverage which always includes several municipalities and thus leaves to one side the competency of its concessions in the hands of the Autonomic Regions. The over one thousand broadcasters listed in the plan (266 areas with four programs each) were supposed to broadcast at least 4 hours a day or 32 hours per week and could only chain program five hours per day or 25 hours per week. Although the recommendation was to judge as a variable factor the previous experience prior to 1995, televisions that did not acquire digital concessions were supposed to

disappear in six months. In total, the plan meant that local television was supposed to serve as an engine for TDT, becoming digital ahead of time at the beginning of 2008.

The two processes opened as of this regulation, although not finished yet in many regions, has given way to heated political polemics. As far as private regional concessions are concerned, by May 2007 ([www.setsi.es](http://www.setsi.es)), only five communities had convened and resolved the public bids to grant the titles for broadcasting in autonomous areas (Catalonia, Galicia, La Rioja, Madrid, Murcia and Navarra). This took place in spite of the fact that it was clear that this was an “opportunity for the Regional Governments to regulate and re-structure the sector, but, above all, to promote consolidation or development, depending on the case, of a powerful audio visual industry” (Impulsa TDT March 2007).

The lack of information transparency of this process on a state level, the chaotic final result cannot be kept in the dark, because the private autonomous concessions that were already decided do not appear in the web page of the Ministry of Industry (SETSI) nor in the Impulsa TDT page and only in a few cases in the registry of the CMT (Annuary 2008, Annexes). Yet when searching for the state of the concessions in the “autonomous contents” or in the Impulsa reports, one can check that -without company names- that most have been granted but are not broadcasting or are still in the concession process (Cantabria, Extremadura, Castilla La Mancha) and there are even regions that have not reserved a single program out of eight for public service (Castilla y Leon, La Rioja and Navarra) (See Impulsa TDT. “Local and regional TDT in Spain”. May 2007 updated in June 2009).

Within the enormous political discretion of this process there is a complete spectrum of possibilities imaginable: while the Consell Audiovisual of Catalonia, according to the reform of 2006 has been the leading entity with a report linking the private radio and television concessions, on the other end, the Community of Madrid eliminated its already consulting and inefficient audiovisual council arguing “freedom of expression”, and many other regions uphold councils without competencies (such as Galicia) or simply have not even considered this.

On the other hand, and in view of the absence of independent instances in the audiovisual field capable of making objective decisions, most of the regional concessions have not eliminated adopting worrying political slants, with some decisions taken even at times by provisional post-elected governments such as Galicia with the Fraga Government (to COPE and La Voz de Galicia) or Catalonia during the final period of Pujol (four programs granted to the Godó group). Similarly the regions ruled by the PP party granted privileges to the COPE radio (Galicia, La Rioja, Valencia, Murcia), to Unedisa-El Mundo (Balearic Islands) or Vocento (Murcia, Madrid) as well as local mediatic groups close to the party (*La Verdad de Murcia*, *Las Provincias*, Antena 3 TV in the Canary Islands). Vocento and Prisa-Localia were the scarce few national companies favored in regions governed by the PSOE political party as well as in some regions governed by the Popular Party (PP) (Navarra) (Bustamante 2008).

As far as bids and concessions of local digital television, the panorama is much more complicated due to their number but follow the same trend, some regional communities have carried out simultaneous bids for indirect regional concessions and local ones, others have convened the different ones paralysing or keeping the concessions unfinished, thus in the





Castilla y León community in June 2009 there were 85 licences that had not been granted, 24 in Castilla-La Mancha, 12 in La Rioja (Impulsa TDT "Local Contents").

Within this margin of discretion, the role played by local televisions has been outstanding (Catalonia) or almost totally eliminated (Cantabria, Castilla y León, La Rioja, Navarra or Melilla), and the broadcasting commitments after receiving the concessions form a slew of rules or omissions that is practically endless. In many regions a requirement has been paying deposits or guarantees and later large payments (up to half a million Euros in Madrid), which along with the underrating of the "experience" of local broadcasting entities which in some cases have been existing for many years, has led to a complete about turn in the map of local television. In just a few of the communities with longer experience in local television, there has been backing by regional governments to the channels, especially in Catalonia and Andalusia where non-profit broadcasting organisms have been taken into account.

In the opposite pole, the bid for licenses in the Community of Madrid would end up in strong public controversy between communications groups and ended up with claims taken to court. The resolution of the Government of Madrid, for ten year periods to be renewed without limitations of specific concentrations and not even reviewed by the Audiovisual Council nor the regional Parliament, rejected all the pre-existing local broadcasting companies including some associations such as Tele K of Vallecas which had decades of experience and finally granted licences to aspiring companies close to the PP political party, among which were companies with nil experience in television broadcasting such as Enrique Cerezo (10 broadcasting licenses), Popular TV (COPE radio with 5 concessions) or Libertad Digital belonging to Federico Jiménez Losantos (4). The legal appeal presented by the Audiovisual Council of Madrid (which was immediately dissolved by alleging freedom of expression) in the absence of the necessary report, only managed to get the High Justice Courts of Madrid to temporarily cancel the licenses due to "defect in form" as the Regional government didn't even evaluate the tendering offers presented (November 2008).

As pointed out in a previous document of the Alternativas Foundation, without a General Audiovisual Law and state and regional regulative authorities, the possibilities of deviations that would induce the market logic in the practice of local digital televisions with respect to concession rules, made these remain without any control, and it looks like local television arising from this process will "present a deficit in proximity communication" (Prado 2007).

In sum, according to pseudo official reports, only a few concessionaries in five regions (Catalonia, Valencia, Madrid, Navarra and Ceuta) had fulfilled the broadcasting terms and "over 84 per cent of the concessionaries have not started their emissions in digital technology" (CMT 2006). Thus, as a report by Impulsa TDT concluded "the lack of commitment by the license holders (and the Government) to start broadcasting in TDT places a certain risk in the model foreseen" and consequently, "all these unfulfillments have generated a great uncertainty in the sector (...) the conditions are not good for the development and implanting of TDT in local and regional scopes" (Impulsa TDT May 2007-June 2009).

As a fundamental conclusion the outstanding thing to be pointed out in this process has "deeply changed the features of the TVL", promoting and enhancing the commercial private sector (three fourths of the available



programs), penalising the public service and very especially the proximity televisions (associations) which had been broadcasting for years and in just a few regions have managed to survive (Corominas et al. 2007) to favor to a large degree the formation of networks of the large Spanish multimedia groups and in some cases, regional business groups.

At any rate, and from a financial point of view, this system is very hard to upkeep even in the way that it is articulated in large national chains, as all of them have received an incomplete and unbalanced mapping of licences, full of holes, absent many times in the metropolis and profitable regions and not viable for any rational business plan. This is what can be seen by the closing of Localia (November 2008) which had managed one hundred of its own broadcasting stations or associates but in an incomplete map, or the divestment of Vocento in Punto TV. In general, the short history of regional or local private television is already plagued by returned licenses, flagrant unfulfillment in digital broadcastings, fake sublets and contents that are distant and lacking in commercial attraction.

### 5. Quality promises (technical) and growing poverty of contents

During the first years of orderly transition, official entities complained out loud several times about the generalised unfulfillment of the private chains in their signed commitment for licenses of most of the “original, novel and attractive programs in TDT”, blaming them precisely for reducing the attraction of this technology for the necessary collaboration of the users. Although it is understandable that, in view of lacking an independent audiovisual authority, the executive government lacked resources or authority to make these commitments fulfillable, this was an explicit confession of impotency. Little by little however, the official accent started changing to reinforcing the “technical” quality of the signal, very debatable in the practical experience of millions of viewers. And along the sidelines of the blackout, the official accent continued its head on rush to escape by promising high definition television whose extension had been precisely left for later by their own projects.

From critical instances of the transition process, a perception was also made of both the original contents in TDT as well as the interactive services promised were absent, with no official effective reaction coming forth. (Bustamante 2009). Once the analogical blackout took place, these absences are even more striking. The Final Report by Impulsa TDT, backed by the SETSI, to a degree of being confused with the official last word, has left to one side any analysis of the programmings that were offered up to a degree in which the section for “channel offerings” is just a description of general contents of each one of the national, public and private programs, adding a technical description presided by their logo (Impulsa TDT 2010).

Such an absence of thought is only evidence of the total inhibition of the Administration facing the wanderings of the market. In sum, this same summary description shows that along with the original channels of each chain, there has been an inclusion of younger siblings with erratic and changing intents. Beyond curious battles for the name of “seven” and continuous rectifications with sudden about changes which make the lack of knowledge obvious of the commercial groups, the immense majority of the supposedly “thematic” channels offered in 2010 only deserve the name of generalistic, content, aggregates of very diverse contents for entertainment and in the best cases, guided by ambiguous audience target criteria.





Modern television theory – and publicity – geared around fragmentation of specific offerings according to genres and formats, to achieve precise age, tastes, and lifestyles bracketing finds little application here. This is the case of La Siete (general entertainment, especially tele-reality, previously Telecinco 5 Sport) or Factoría de Ficción (with more reality shows than serial fiction programs) or with Antena Nova (general leisure) and even with Neox (supposedly for children and teens) or Veo 7 (a genuine mixmatch of genres and formats). A trend that makes any classic classification by genres useless as there are even programs that are apparently specific such as Intereconomía in “news” that are still miscellaneous with an absolute mix of genres and formats. This is taken to such a degree that the only national novelty in digital channels such as Intereconomía (Net TV, Vocento) or Veo TV has been to move the worst perversions of radio to television: conversations and militant information bulletins with nil plurality and a double slant towards the right wing (Franco and neoconservative) whose sole virtues are the cheapness of their costs and the competitive attraction for sectarian audiences that are fortunately real minorities.

On the other hand, and as far as perception of subjective diversity, a recent study, based on a poll of the viewers, shows how a large amount of users do not mistake quantity with quality in television programming considering digital programming prior to the analogical blackout as “very bad” or “bad” (27 per cent of the people polled) with 31,8 per cent considering it as “average”. This critical perception is more acute as expected, in older viewers with higher educational levels (polls carried out in June 2008), on the other hand and as far as perception is concerned (Artero, J.; Herrero M. y Sánchez-Tabernero 2010).

Although the round tables with central producers in this Seminar can supply a more authoritative opinion, (everything indicates that the impact of the new digital programs on independent production in Spain, on general programming have been practically nil), and at the same time frustrating industrial expectations and promises of cultural diversity. On the other hand if anyone reviews the already bulging figures of the audiovisual commercial deficit in Spain, the reader would right away verify the quality leap in the TDT during the past two years. An inevitable effect of the massive import of old U.S. programs and the halting of cession of complete programs to casual accumulations of old and lackluster global Franco regime collections such as those represented by Sony TV (agreement with Veo and AXN, Columbia, etc.) or the Disney Channel (only interesting due to the strategy of the veteran major). According to a recent report, large majors such as Columbia, Warner, Universal or Sony as well as ITV or Televisa, have disembarked in Spain in the open market via TDT (Academia de TV/ EOI, 2010.)

In short, and as stated with total fairness by the declaration issued by the Association of Communication Users regarding the digital start up: “With some notable exception, the operators acting in the TDT have tended to economize production costs and packaging, reusing channels and contents and in sum, protecting the competitiveness position of their main brands while at the same time practising a timid “transmedia” exposition. These practices have projected an image of the TDT offering as a replica or amplification of already existing channels, although it is also true that spectators value in a positive manner the opportunity to see different kind of pre-recorded broadcasts from reference channels (AUC 2010). The maximum and eloquent exponent of this assignation to the new digital programs of a marginal complementary strategy with respect to the first analogical channels is the publicity planning of Antena 3 TV: pompously called the “sole pattern”, is simply unitar-

ian sale of publicity in a way that is identical and simultaneous in all its channels which follows in its goals and times the leading general first channel, subordinating programming, cuts and audience targets to a generalistic vision. In an absurd nostalgic remake of the analogic era whose ostentatious aim consists in recovering and adding at any cost share quotas and GRP while the leading chain of the group irreversibly has a decrease in audiences to attempt to uphold investments and rates of the large advertisers.

It is not unusual that, under these circumstances, publicity investment has moved to a very low degree to the "theme" channels, at far distance from what has happened in neighbouring European countries and apparently in a frontal contradiction with publicity and communications theory itself which gauges these programs and targets as the future of modern publicity. Specifically it is outstanding that the theme channels, true leaders in audience ratings during the more recent seasons, taken together (up to around 20 per cent in 2010) and with a speedy growth rate, especially in their open digital versions, present a very disproportionate publicity investment quota with respect to their share achievements (2,3 per cent). Yet, as opposed to the usual claims against publicity which is backward in its adaptability to the new digital setting, programming and publicity strategies of the chains make evident such a ballast of the past and such a degree of lack of confidence in this new multi-channel horizon that makes it extremely unlikely that they could be motivated to change their attitude in publicity environments.

As a result of the suppression of publicity in RTVE, the private chains, above all, the classic leaders which are Telecinco and Antena 3 TV, have limited themselves to impose abusive increases in publicity rates (around 25 per cent according to publicity publications) in permanently falling share spaces and accelerated GRP crisis. According to the forecasts of Zenith Media: "The situation is especially good for some media such as Television, which practically reabsorbs all the investment that came out of RTVE by means of a big hike in prices, and Internet. And, according to this same observatory, "investments that cannot go to TVE anymore have had to move to the other television channels with especially brilliant results for the generalistic channels which could experience growth rates of over 30 per cent in their incomes" (Zenith Vigía July 2010). This growth in incomes is being produced by means of a strong rise in the prices which has generated restlessness in advertisers". However, it will be necessary to observe in the mid term if this success keeps up or is only fleeting in view of the lack of genuine corresponding added value for investors, the GRP that TVE has.

On the other hand, RTVE has maintained its strategy in offerings of the digital transition around 24 hours and of Teledporte and the new programs foreseen collapsed because of the budget crisis which took place because of the new financial model. The planned progressive exclusion of sports and films in channel 2 and its absorption of the programs designed for the Cultura channel, lead one to think that an even faster audience loss will take place that was already taking place in the second channel during recent seasons. Such a situation along with the lack of resources for the new digital channels would enable justifying privatisation of a complete multiple of RTVE in the case of an income crisis.

The alarming news published in recent months about the financing of RTVE ("RTVE on the brink of financial suffocation" *El País*, 21.07.2010; "Treasury wants to reduce subsidy to RTVE by six per cent" *El País*, 26.07.2010) seem to make a curious conjunction of efforts evident, from the





Government and from private channels a turn of the screw to the public service, by reducing in the short term its competence and its weight with the Spanish television audience. Even more so when all the news point to the “adjustment” of the budget in 2011 will include a cutback in State funding of RTVE.

As regards to interactive services, the great official promise about TDT as an open door to the universal extension of the Information Society, this has been a total failure. Beyond the paradoxical European situation, with an officially adopted standard such as the MHP boycotted afterwards by closed platforms, it is impossible to avoid pointing out the nil activity of the Spanish Administration in promotion and distribution of the interactive decoders. This absence of a market has inevitably determined the absolute unwillingness of private operators in development of interactive applications that have no possibilities of returns. This is so to such a degree that the final TDT report limits itself to point out its almost nil existence, simply mentioning the poor general offering of programming guides (not regulated or standardised) and pointing out the development by RTVE of improved teletext, traffic, weather or stock market with some experience in employment.

The only noteworthy novelty is TDT with conditional pay access, which after a hard mediatic and political battle and urgent legal passing in 2009 (Decreto-ley urgente 11/ 2009) has only produced one single channel, Gol TV, immediately launched by La Sexta as a substitute of another open channel (Real decreto-ley 11/2009). A result that warrants accusations of political favouritism by the Government with a friendly group featuring not very orthodox business practices.

Truly, it is not possible to guess the future contents of the new nine private digital channels granted in the State scope: one per “classic” private TV channel (Antena 3 TV, Telecinco, Sogecable), and two for each new digital concessionary (Vevo TV, Net TV, La Sexta), which would come to join those of TVE to reach a total of twelve new programmings. But the financial situation of the publicity market and lack of receivers prepared for pay TV and interactive TV join forces to forecast the worst futures for them. Thus there have been rumours that La Sexta and Vevo TV (a curious alliance between the most left wing channel and the most right wing channel) would launch a channel called Marca TV (a cornerstone in their mutual alliance with Planeta), or that Telecinco and Antena 3 are preparing channels addressed to the female and masculine audiences respectively in what would be new fake theme channels. With a wish to be mistaken, it does not seem that the exhaustion of the digital television spectrum as of September 2010 will mean a favourable turnabout in diversity of the offering in Spain.

As far as public autonomous televisions are concerned, there is hardly anything to point out such as the coherent strategy of the Corporación Catalana de Mitjans Audiovisuals, promoter of new programs and a systematic elaboration of software and new interactive services. In general Autonomous Televisions have limited themselves in the best of cases, to package information channels (Balearics, Valencia as well as Catalonia) or children’s programs (Catalonia, Basque Region) when not offering simulcast of analogic programming. In general the great chance of digitalisation is being wasted, this was to be “redefinition of the action perimeter of the radio and television broadcasters of the public sector also through services and offerings of proximity” (Richeri 2006).



As far as regional and local private television channels, there is little to hope for in terms of diversity in their content offerings or backing audiovisual production. In the two most recent years, this conclusion was forecast more or less officially: “the lack of commitment by the licensees (and the Administration) to start broadcasting in TDT places the model foreseen at certain risk”, and consequently “all these unfulfillments have generated a great degree of uncertainty in the sector (...) the conditions are not very favorable for the development and implantation of TDT in the local and autonomous sector” (Impulsa TDT, May 2007-June 2009). In the final report of Impulsa TDT, the regional offering appears solely as a “list of autonomous channels”, private and public ones mixed together and in which the hundreds of local concessions don’t even get a mention, obviating the swamping of many bids and the digital inactivity of many licenses, including these to be returned to the State. But in a recent report of the sector an outstanding mention is made once again of the return of the licenses, activity quitting and delays in digital broadcastings (Academia de TV/ EOI 2010)

As a sample of the type of “proximity television” that awaits us, we can point out the presentation in December of 2009 of the new autonomic and local chain of Vocento which was launched in a fragmented mapping (Onda 6 in Madrid, Las Provincias in Valencia, Sevilla TV in Andalusia and Teledonosti, Alava 7 and Bilbovision in the Basque Region) but focused on an agreement with the *major* Viacom (Nickelodeon, MTV, Paramount Comedy) which would supply most of the programs, with coordinated publicity and brief local news casts. Thus the promises of promotion of a larger audiovisual industry that is not centralised are frustrated while local television is placed as a public service or community service in a situation it is impossible to carry out as well as complementing cultural diversity.

In sum, and as a conclusion of this story, for now, it is necessary to remember the sorrowful episode that took place at the end of the Spanish presidency of the European Union of the “Madrid Declaration” agreed upon in the “European Media Encounter: New challenges” which took place by chance during the same days as the IIIrd CONTD Seminar of Valencia. This encounter convened in Madrid in the headquarters of the Instituto Cervantes all of the most important figures of the Spanish patronal associations as well as European ones of all the communication media. The surprising absence of any representative of RTVE, the FORTA and the UER itself (forum of public service of the European Union and the European Council), with the inauguration of the President Rodriguez Zapatero and concluded by the Vice-President of the Government, María Teresa de la Vega, a genuine manifesto was passed with 20 points to it in which it starts by proclaiming that the “journalistic professional media (in other words, private ones) constitute one of the central bastions for European democracies and our system of rights and freedoms”. Right afterwards a progression of an entire series of demands and recommendations was developed that range from passing a statute of “general economic interest” to “general interest”, with the “no charging of excessive public service liabilities”; and a closed defense is demanded of the “right of intellectual property” in press, radio and television and a “coordinated policy against piracy”. The Manifesto concludes with a claim to self regulation in publicity matters, in other words, no regulation or co regulation and claiming zero VAT taxing for the press.



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There is no need to repeat the conclusions that can be drawn from this analysis of the television events in Spain during the past five or six years, this Seminar and its Manifesto appeared to exemplify in a bare way the solemn signature of a pact between private media and the Socialist Spanish Government. An *entente cordiale* which, raised to the European Commission itself, acquired the category of a program for the "European communication model", with all the uncomfortable attachments such as public service, pluralism and diversity removed from it yet endowed with a new and totalitarian market vision that most of the right wing governments in Europe must have perceived with empathy and complicity.

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