

MONOPOLIZATION OF MEDIA OWNERSHIP AS A CHALLENGE TO THE TURKISH TELEVISION BROADCASTING SYSTEM AND THE EUROPEAN UNION

Ayşen AKKOR GÜL*

Abstract

Since the 1990's the television broadcasting system of Turkey has grown with a remarkable impetus. However it has a number of major problems which threaten the development of a healthy media landscape. This paper mainly focuses on the issue of 'monopolization of media ownership' which can be detrimental to pluralism. The study which is no more than a status report aims to analyse both the development of Turkish rules against 'media concentration', and the European Union's policy on 'Media Concentration and Pluralism'. To examine the outcome of the amendments made to the Turkish Media Law, it compared the ownership landscapes of 2004 and 2010. Since Turkey is a candidate state, analysing the European Union's attitude on media ownership might give us the opportunity to see the possible future developments of the Turkish Media Landscape.

Some of the findings are: The amended Turkish Media Law had not prevented media concentration by 2010. The European Union is aware of the danger media concentration might lead to, however, the Directives lack effective media concentration legislation.

Key Words: Media Concentration, European Union, Turkish Television Channels,

Özet

Türk yayıncılık sistemi 1990 yıllardan itibaren kayda değer bir gelişim göstermiştir. Ne var ki sistem medya ortamının sağlıklı gelişimini tehdit edecek bir takım sorunları da içinde barındırmaktadır. Bu çalışmada çoğulculuğu zedeleyen "medya mülkiyetindeki tekelleşme" olgusu başlıca sorunsal olarak ele alınmıştır. Çalışma bu

* Doç.Dr., İstanbul Üniversitesi, İletişim Fakültesi, İstanbul

bağlamda Türk mevzuatındaki gelişmeleri ve Avrupa Birliği'nin yaklaşımlarını irdeleyerek bir durum saptaması yapmayı amaçlamaktadır. Türk Medya Kanunu'nda bu konuda yapılan son değişikliklerin sonuçlarını değerlendirebilmek için de 2004 ila 2010 yıllarının medya mülkiyet yapısı karşılaştırılmaktadır. Avrupa Birliği'nin bu konudaki tutumunu belirlemek aday ülke konumundaki Türkiye'nin gelecekteki medya ortamı ile ilgili olası gelişmeleri tahmin etmemize yardımcı olabilir.

Ulaşılan bazı sonuçlar şu şekilde verilebilir: Yeniden düzenlenen Türk Medya Kanunu'nun 2010 yılı itibariyle medyadaki yoğunlaşmayı engellediğini söylemek güçtür. Avrupa Birliği Komisyonu, yoğunlaşmanın neden olabileceği tehlikelerin farkındadır. Ne var ki, yürürlükteki yönergeler bu konuda etkili düzenlemelerin getirilmesini sağlayacak hükümler içermemektedir.

Anahtar Kelimeler: *Medyada Yoğunlaşma, Avrupa Birliği, Türk Televizyon Kanalları,*

Introduction

The 1990's brought great change to the Turkish television broadcasting scene, especially for the broadcasters, entrepreneurs and the viewers. The 'deregulation movement' seen in those years meant new 'opportunities' both for the broadcasters, and the entrepreneurs. Most of the broadcasters who had emerged from the ranks of the Turkish Radio and Television Corporation (TRT) were tempted with promising new job offers when the new channels opened. Although the Turkish Media Law no. 3984 emphasized that the new channels would be 'private channels' working for 'the service of the public', they soon turned out to be 'commercial channels' and tools for 'political' power. Therefore, establishing a private channel became an attractive investment for enthusiastic entrepreneurs.

The Turkish viewers embraced the new channels hoping that the pluralistic media system would bring diversity with new types of programmes which would be alternatives to the long running TRT programmes. Many people believed that there would be an abundance of news on the screen, and news bulletins were expected to be given impartially, reflecting different points of view. In fact, in the first couple of years, some of the types of films and music that had not been found suitable to be broadcast on TRT were on the screens of these new channels, and the news bulletins of the new channels were different from TRT's protocol-based broadcast style. However, contrary to expectations, in less than ten years, news bulletins reflecting international news stories were slowly reduced in number. They became more image-based and there was less text, less political and parliamentary news but more human interest and entertainment news stories. In other words, commercialization has changed the nature of news bulletins.

Looking at the ownership structure of the large television broadcasting companies it is seen that they soon developed into cross-media groups, whereas small companies slowly vanished. By 2004, there were four major and four smaller cross-media groups

in Turkey. The major cross-media groups gradually branched out into activities other than media such as, finance, insurance, steel, automotive, trade, and thus rapidly turned into conglomerates.

By 2010 those conglomerates had engaged in mergers and acquisition strategies parallel to the changing political environment in Turkey. It is possible to state that for entrepreneurs media meant financial investment and a means of attaining political power rather than a means of satisfying public interests. On the whole, this attitude resulted both in compromising the journalistic value of impartiality and in commercialization. The tabloidization of news can be seen on nearly every private channel. Thus, like in many European countries, the deregulation movement in Turkey did not bring media pluralism, and many who were optimistic about the future of a liberalized media are now experiencing disappointment.

Looking at the European Union's attitude on media ownership, we see that arguments for 'full liberalisation' are succeeding in the Commission which now appears to be moving towards a complete deregulation of media markets under an initiative on 'convergence'. The answer of the European Commission to those who are not content with these developments is that the European Commission does not have 'immanent authority' to regulate media concentration in Europe. However there is still a debate going on among the European Union's institutions on media concentration and pluralism.

The Commission Green Paper (1992)¹ concentrates on the definition of 'pluralism' in the first part. Three options are discussed in this respect. Whether pluralism be assessed (a) by content, (b) by the number of channels or titles, or (c) by the number of media owners/controllers. The Paper concludes that the latter was preferred because 'concentration of media access in the hands of a few is by definition a threat to the diversity of information and pluralism'.

Looking at the Turkish studies done in the 2000's, it can be seen that many scholars drew attention to the results of monopolization of media ownership in Turkey. Sönmez for example, in his book *Media, Culture, Money and İstanbul Potency (Medya, Kültür, Para ve İstanbul İktidarı)* stresses the fact that with the monopolization of media ownership, administration in media organizations has become more authoritarian and even dictatorial. Moreover he asserts that the omnipotent media owners have created a new kind of aristocracy among journalists who carry out their orders to the letter.² On the other hand, Adaklı in her book *Media Industry in Turkey: Ownership and Control Structures in the Age of Neoliberalism (Türkiye'de Medya Endüstrisi: Neoliberalizm Çağında Mülkiyet ve Kontrol İlişkileri)* explains the gradual development of a new capitalist media ownership in Turkey from the 1980's onwards. In her analysis she concentrates mainly on three different reference points, namely, 'economic and

¹ Commission of the European Communities, 'Pluralism and Media Concentration in the Internal Market' Green Paper, COM(92)480, Brussels, 23.12.1992.

² Mustafa Sönmez, *Medya, Kültür, Para ve İstanbul İktidarı*, İstanbul, Yordam Kitap 2008, s. 147-154.

political context', 'economic structures of media organizations' and 'the role of media in social formation'.³ Some scholars preferred to make comparisons between the situation in Turkey and in other countries. For example, Pekman in his article "The Problem of Regulating Media Ownership: The Global Frame and Turkey as a Sample" (Medya Sahipliğinin Düzenlenmesi Sorunu: Küresel Çerçeve ve Türkiye Örneği) discusses the problematic media landscape of Turkey with cases in the United States, France, the United Kingdom, Spain, Italy, etc. He also mentions the European Union's studies done on media concentration and pluralism from 1984 to 2003.⁴

Scholars also came together on various occasions to discuss the problem of concentration in media in Turkey. For example, in December 2003, a "Media Concentration and Transparency" panel discussion was arranged at Ankara University by the Faculty of Communications in collaboration with the Council of Europe. Here researchers had the opportunity to discuss the matter with their foreign colleagues. Çaplı for instance, listed conditions needed for establishing a more pluralistic media in Turkey. He also called attention to political culture and underlined the fact that the communication system in a country should be considered as a complementary part of its political culture. In addition to European speakers such as Berka and Van Loon, Avşar representing the Radio and Television Supreme Council gave examples from European Union countries and explained their media ownership rules. Avşar also stated that although the European Union had done studies on 'media concentration and pluralism' it had not so far developed an effective regulation to prevent media concentration.⁵

This paper is especially important because it gives the history of the European Union's media concentration policy and shows why it has so far been unsuccessful. It also reflects the recent developments on this issue. Moreover the article has the intention to illustrate the Turkish media ownership landscape of 2010. Therefore, first of all, light will be shed mainly on the deregulation period of television broadcasting in Turkey. Then the development of Turkish rules against 'media concentration', and the European Union's policy on 'Media Concentration and Pluralism' will be analysed separately. Since Turkey is a candidate state, analysing the European Union's attitude on media ownership will give us the opportunity to see the possible future developments of the Turkish Media Landscape. In order to see the outcome of the amendments made to the Turkish Media Law concerning media concentration, the ownership landscapes of 2004 and 2010 will be compared.

³ Gülseren Adaklı, **Türkiye'de Medya Endüstrisi: Neoliberalizm Çağında Mülkiyet ve Kontrol İlişkileri**, Ankara, Ütopya Yayınevi, 2006.

⁴ Cem Pekman, "Medya Sahipliğinin Düzenlenmesi Sorunu: Küresel Çerçeve ve Türkiye Örneği", Mine Gencil Bek ve Deirdre Kevin (der.), **Avrupa Birliği ve Türkiye'de İletişim Politikaları: Pazarın Düzenlenmesi, Erişim ve Çeşitlilik**, Ankara, Ankara Üniversitesi Basımevi, 2005, s.243-290.

⁵ Nilüfer Timisi, "Medyada Yoğunlaşma ve Şeffaflık Paneli", 20 Mart 2010, <http://www.medyadadergiler.ankara.edu.tr/23/668/8514.pdf>> 14 Aralık 2004.

The History of Television Broadcasting in Turkey and Concentration

Early Stages of Television Broadcasting

TRT, established in 1964, launched the country's first television station on January, 31st. 1968. The autonomy of the broadcasting service was laid down in the Turkish Constitution and in the TRT Law. As stated in the law, TRT was a publicly owned, autonomous institution. In other words, it had autonomy in programming, in administration and in finance. Its functions were defined as being those of a public service. Just like the guiding ethos of the BBC, it had a mission to provide national, social and democratic integration in the service of ideas higher than entertainment and profit. It began broadcasting programmes up to seven hours a day in some regions of Turkey. TRT tried to inform the public and educate people with hundreds of programmes such as 'To Anatolia' (Anadolu'ya), 'Let's Tour and See' (Gezelim Görelim), 'To the Village and from Village to the City' (Köye, Köyden Kente), 'Woman and Home' (Kadın ve Ev) etc⁶. However its news bulletins were sometimes criticized because they were said to reflect the priorities of the ruling government. After the 1971 Military Council warning to the government interference with TRT increased. Finally, the Turkish Parliament took action and amended Constitutional Article 121, which until then had guaranteed TRT's 'autonomy'. In January 1972, Law no. 1568, transferred that amendment to the TRT Law. The Corporation was then defined with a rather abstract term as 'an impartial' institution which then enabled the ruling government to put more pressure on the broadcasters.

After the Military Coup in 1980, a new constitution was adopted. The 1982 Constitution also defined TRT as an 'impartial' institution in Article 133. Until 1984, TRT's first television channel (TRT1) was the only choice the viewer had. However, TRT was frequently criticised as being the voice of the government and for being reluctant to debate any controversial issues that were on the public agenda.

The Deregulation Movement

In September 1990, STAR1, a private television channel, benefiting from the loopholes in the law began broadcasting programmes in Turkish via satellite from Germany. Then we saw the mushrooming of private channels. The screens of these new channels were sometimes occupied with low quality programmes, frequently cheap American dramas but sometimes they featured debate programmes on varied themes which the Turkish public was unused to watching. By the mid 1990's the main problem was that there was neither a law to regulate new channels nor a regulatory body to assign frequencies to private channels. Finally, August 8, 1993, the Turkish Parliament passed a proposal to amend Constitutional Article 133 and lifted the state monopoly on radio and television broadcasting. With this amendment, TRT was once more defined as an 'autonomous' institution, at least on paper. The long awaited law went into effect in April 1994. The Radio and Television Law was passed by the Turkish Parliament to

⁶ Aysel Aziz, **Radyo ve Televizyonla Eğitim**, Ankara, Ankara Üniversitesi Eğitim Fakültesi Eğitim Araştırma Merkezi Yayınları, 1982, s.100-107.

regulate private broadcasting. The law also established the Radio and Television Supreme Council (RTÜK), comprised of nine members appointed by the Parliament, as the regulator for private broadcasters. The RTÜK was made responsible for distributing frequencies and awarding licences to broadcasters, and also for monitoring the broadcasters' compliance with the law.

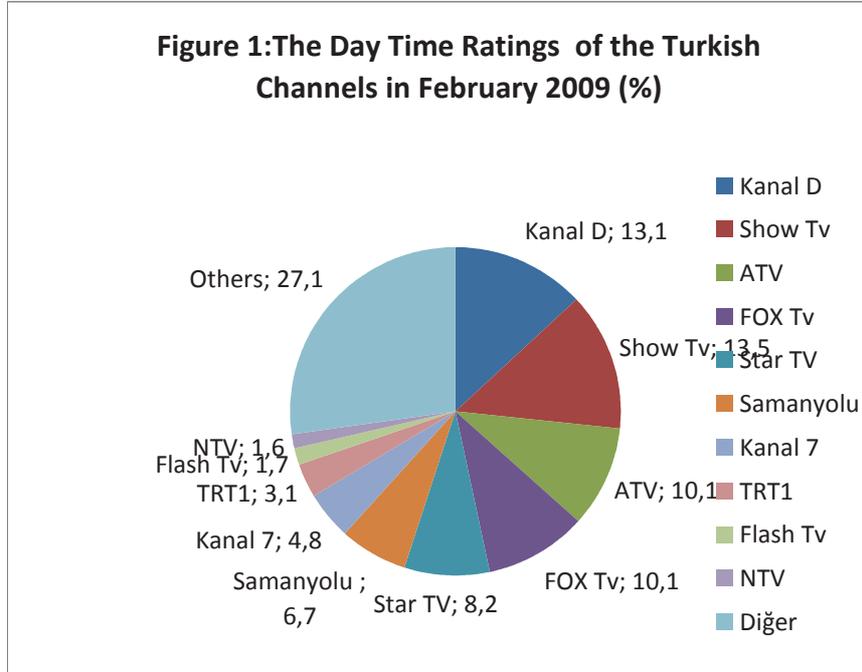
The Media Law and Amendments Made to the Law Concerning the Issue of Concentration

The Turkish Media Law, no. 3984, was completely compatible with the European Union's *Television Without Frontiers Directive* of 1989. The provisions describing television 'advertising and sponsorship', 'protection of minors', 'right of reply' were especially consistent with the Directive. It can be stated that the media law was also designed for the development of a democratic media landscape. This was largely because of the experience of the de facto period.⁷ Therefore certain articles were worded in order to prevent abuses such as generating political power through media ownership and commercialization.

Article number 29, for example, was constituted to prevent media concentration in Turkey. According to this article no shareholder was to own more than 20 percent of a broadcasting enterprise. If the shareholder held shares in more than one enterprise, the total shares in all enterprises could not exceed 20 percent. This was also valid for foreign investors. Moreover, anyone who holds shares of more than 10 percent in one of these enterprises is not allowed to enter public bidding processes. These rulings not only did not prevent media concentration but instead led to a decrease of transparency in practise. People established enterprises in the names of others. Thus the law which was designed to prevent media concentration encouraged the opposite, and the abuse of the law was widely seen in the 1990's.

The law was amended in May 2002. According to the amended law if a person or a group was to own more than 50 percent of a broadcasting enterprise which has an annual average audience threshold of 20 percent or more then he or the capital group would have to sell the shares in excess of 50 percent or go to public offering. Thus it would not be wrong to state that the amended law set no restrictions on the number or variety of media activities. Actually it only established an annual average audience threshold which is almost impossible to achieve (see figure 1).

⁷ The son of the 8th. President of the Turkish Republic, Ahmet Özal and his friend Cem Uzan established the first private channel of Turkey by benefiting from the loopholes in the law and broadcasting programmes in Turkish via satellite from Germany. This channel supported the political party ANAP with its broadcasts. Then the Enver Ören, Doğan, Dinç Bilgin and Zaman Groups who at that time owned newspapers started their own television broadcasts to develop their financial investments and gain political power.



Source: Medyatava, <http://www.medyatava.com/haber.asp?id=62824> -June,2009.

Some of the provisions were first suspended by the Constitutional Court and later annulled. However how RTÜK will determine the threshold is still not clear. Currently, AGB-Anadolu a subsidiary of AGB International has been commissioned by the Turkish Audience Research Board (TARB) an industry group of broadcasters, advertisers and advertisement agencies to handle audience measurements in Turkey. It uses 1951 people-meters and has invested significantly in the system, although it only measures the national television channels that have subscribed to the AGB- Anadolu system. It is unclear whether the RTÜK will use the TARB's figures, or will establish its own audience measurement organ and spend public money on setting up a wider-reaching system for both television and radio. Moreover, the fact that none of the current broadcasters is licensed⁸ leaves the RTÜK without any means to be active regarding ownership issues.

⁸ It was the Television Supreme Council's (RTÜK) initial responsibility to prepare a frequency plan and allocate frequencies accordingly. However, because of the disagreement between other regulatory authorities such as the Telecommunication Authority (TK) and the Communications High Council (HYK) and because of the interference of the National Security Council (MGK) the process of licensing could not be completed. The main concern of the National Security Council was that licences would be awarded to conservative religious circles, which would then pose a threat to the secular State. In March 2005, the Communications High Council, a body of approval for communication policies, decided to abandon any procedures for analogue frequency allocations and instead to move ahead with digital switchover. The Communications High

The amended law of 2002 also raised the ceiling on foreign capital investment to 25 percent and persons holding more than 10 percent of shares in one of these enterprises were no longer banned from entering public bidding processes. Currently, the Parliament is preparing a new media law and the chairman of RTÜK has recently announced that they are planning to increase the foreign capital investment limits in media enterprises to up to 50 percent. Thus, it is possible to say that the amendments have not prevented media concentration but instead have assisted some media groups to enlarge their investments further and also to take part in public bidding processes even though it threatens their impartiality.

The Structure of Private Television Broadcasting in the 2000's

Today the Turkish broadcasting market, with over 18 million television-owning households, is one of the biggest in Europe. It has 23 national, 16 regional and more than 212 local television channels⁹. There are also a number of channels exclusive to cable and satellite audiences. By 2008, state owned cable television was available in 20 cities with over one million subscribers. Digitürk and D-Smart, privately owned satellite companies and digital operators, have over two million subscribers. In recent years, there has been a rise in the number of thematic channels. There are several all news, documentary, sports, music or life style channels. The first joint venture with a foreign media was CNN-Türk (the Doğan Group) in 1998. This was followed by Murdoch's News Corporation venture with the İhlas group in 2007. Due to the frequency deadlock, all of these terrestrial radio and television broadcasts are realised without the benefit of licence or official allocation of frequencies. On the other hand, all satellite and cable channels have received licences.

The media scene is dominated by major and smaller cross-media groups. Each group because of not yet having completed their institutionalization process is ruled by an owner such as Aydın Doğan, Mehmet Emin Karamehmet, or a family like the Çalık Family, etc. They are all targeted to either gain political power or to turn their investments into profitable enterprises. If we look at the distribution of advertisement revenue¹⁰ it is clear that television advertisement is the leader (see table1). This, of course, explains why profit based enterprises attach importance to television broadcasting.

Council announced its decision that the switchover should begin in 2006 and be completed in 2014.

⁹ Ratem Report, 2009< http://www.ratem.org/2009/RATEM_RDTVSEKTORRAPORU.doc- June 2009.

¹⁰ In 2007 Turkish advertisement revenue reached about 3.3 billion (Euro). However, it is reported that in 2008 it decreased by 2% and was expected to be reduced by nearly 25% in 2009. "Reklam Gelirleri", **Akşam Gazetesi**, 26th. January 2009.

Table 1 : The Dispersion of Percentages of Advertisement Revenue According to Various Media

Medium	Advertisement Revenue (%)			
	2001	2002	2003	2004
Television	42	48	50	51
Newspaper	38	35	35	36
Outdoor	8	7	5	4
Radio	5	5	5	3
Magazine	5	4	4	4
Internet	1	1	1	1
Cinema	1	1	1	1

Source: Bülent Çaplı, "Turkey", Television Across Europe : Regulation, Policy and Independence Turkey, Strasbourg, Open Society Enstitute, 2005, s.1582.

If we look at the media scene of 2004, we see that it was dominated by four major and four smaller cross-media groups. The Doğan Group, the Merkez Group, the Çukurova Group and the Star Group were the major cross-media groups that controlled approximately 80% of the market. The Doğan Group and the Merkez Group were the strongest. 75% of television advertising revenue was earned by these television channels: ATV (the Merkez Group); Kanal D (The Doğan Group) and Star TV (The Star Group) and Show TV (The Çukurova Group). Smaller cross-media groups were the İhlas Group, the Doğu Group, the Samanyolu Group and the Aksoy Group. These groups also dominated the newspaper and magazine markets and were active in other sectors such as banking, automotive, and energy etc. Table 2 shows some of the activities of these major cross-media groups in 2004.

Table 2: The Activities of the Major Cross-Media Groups in 2004

	Doğan	Merkez	Çukurova	Star (TMSF)
National Terrestrial Television	Kanal D, CNN-Türk	ATV	Show TV	Star, Kral
Cable/Satellite	Dream, Fun TV, Galaxy	Kanal 1	Sky Türk, Digi-Türk	Joy, Nev Tv
Radio	Hür FM, Radyo CNN Türk	Radio City	Alem FM	Metro FM, Super FM, Kral FM
Newspaper	Hürriyet, Milliyet, Posta, Radikal, Referans, Turkish Daily News	Sabah, Yeni Asır, Takvim, Fotomaç, Cumhuriyet (partially)	Akşam, Güneş, Tercüman	Star

	Doğan	Merkez	Çukurova	Star (TMSF)
Publishing	Online, magazine book and music publishing, print distribution	Online, magazine book and music publishing, print distribution	Online, magazine and book publishing	
Other media	Production, DHA News Agency,	Production, Merkez News Agency	Production, Media marketing	Production, Ulusal medya News Agency, Media Marketing
ICT	Telecoms, cable operator		Cable operator, GSM operator (Türkcell)	Cable operator, GSM operator (Telsim)
Non-Media	Banking, finance, energy, automotive, health institutions, commerce, manufacturing	Energy, construction, health institutions	Banking, finance, insurance, steel, automotive, commerce, manufacturing	Banking, finance, energy, commerce, manufacturing

Source: Bülent Çaplı, "Turkey", Television Across Europe: Regulation, Policy and Independence Turkey, Strasbourg, Open Society Enstitute, 2005, s.1578.

Some of the major players, because of their activities in the banking sector, have been taken over by the Saving Deposit Insurance Fund (TMSF).¹¹

As indicated in Table 2 and Table 3, the Star and the Aksoy Groups were taken over by the Saving Deposit Insurance Fund in 2004. The Star Group which was headed by Cem Uzan, once a political rival of Prime Minister Erdoğan, completely lost his media group because of his debts in the banking business (İmar Bank). Star Television, Joy Radio, Joy Türk were put up for sale by the Insurance Fund, and were bought by the Doğan Group. A similar situation is also now being experienced by the Aksoy Group because of the İktisat Bank. The Insurance Fund which had taken over the Aksoy Group in 2004, announced that it was going to put Cine 5 up for sale. In 2007 the Merkez Group, a major media group, was also taken over by the Insurance Fund because of its debts in the banking sector. A sale was realized between Dinç Bilgin and another media owner Turgay Ciner. The Insurance Fund approved this sale. However, after discovering a secret agreement made between the two owners the sale was declared void. Presently the owner of ATV and Sabah Newspaper is the Çalık Group. The group is headed by Prime Minister's son-in-law.

¹¹ The fund insures savings deposits and participation funds in order to protect the rights of depositors and to increase confidence and stability in the banking system. It assures that the banks and assets are transferred to it and that the depositors are properly reimbursed.

Table 3: The Activities of the Smaller Cross-Media Groups in 2004

	İhlas	Doğuş	Samanyolu	Aksoy(TMSF)
National Terrestrial Television	TGRT	NTV	STV	Cine 5, Fantasy
Cable/ Satellite		CNBC-E Discovery Channel Turkey, NBA TV		Maxi, Supersport, Gala, Viva
Radio	TGRT FM	NTV Radio	Burç FM	Show Radyo, Radyo 5, Radyo Viva
Newspaper Publishing	Türkiye Gazetesi, Online, publishing	Magazine publishing, Ntvmsnbc.com	Zaman online publishing	Magazine publishing,
Other media ICT	İhlas News Agency, ISS Telecoms		Cihan News Agency	ISS, Cable operator
Non- Media	Education, health institutions, commerce, energy, construction	Banking, finance, insurance, automotive, commerce, tourism manufacturing		Finance

Source: Bülent Çaplı, "Turkey", Television Across Europe : Regulation, Policy and Independence Turkey, Strasburg , Open Society Enstitute, 2005, s.1579.

In 2007 a "Broadcasting Code of Conduct" consisting of twelve articles, prepared by the RTÜK and the Turkish Television Broadcasters Association, was signed by most of the Turkish television broadcasting companies. The aim of this code of conduct is to promote an 'ethical' and 'secure' broadcasting environment. However, still many broadcasters have from time to time turned out to be their owners' voices more or less subtly promoting the owners' interests, have on several occasions caused the conflict between the major groups over their non-media interests to turn into a war of words on the TV screen.

If we look at the media ownership landscape of 2010 (see Table 4), it can be seen that the most striking change is the Çalık Group's entrance to the scene. By acquiring the television and newspaper of the bankrupt Merkez Group in January 2008 it has become one of the leading major media groups. On the other hand the Doğan Group, increased its investments and activities in media sector by acquiring the television and radio stations of the Star Group. By 2009, the Doğan Group owned the channels Kanal D, Star TV, CNN Türk and the D-Smart satellite platform. Later, the group was accused

of tax evasion, and was ordered to pay a fine of €332 million in February 2009 and a further fine of € 1.75 billion in September 2009. It is stated that the amounts involved are higher than the total value of the group. Many people believed that the group is hostile to the present government, and is jeopardising its future¹².

On the whole, it is possible to state that these groups had increased their activities by 2000's and engaged in mergers and acquisitions to obtain the necessary financial capital. On several occasions they received the approval of the Authority of Competition. The Çalık Group and the Lusail International Media Company, for example, applied to the Authority of Competition for the approval of the share representing 25% of the capital of Turkuvaz Radio Television Newspaper and Broadcasting Business Inc. which is controlled by Çalık Holding to be transferred to the Lusail International Media Company. The Authority authorized the transfer deciding that the transaction would not result in creating a dominant position specified in Article 7 of the Act no. 4054 or strengthening the existing dominant position (decision no: 08-44/602-229). On the other hand the Authority of Competition has also given decrees on the issue of 'infringements of competition'. For example, the request for supervision of the obtainment of financing loans within the scope of the transfer of ATV-Sabah Commercial and Economic Entity to Çalık Group Companies, during both the tender and post-tender processes, was considered by the Authority and it was decided that there was no need for taking any action under the Competition Law (decision no: 08-33/411-137)¹³. In some cases concerning the Doğan Group the Authority punished the companies for infringement of the Competition Law¹⁴.

Table 4: The Activities of the Major Cross-Media Groups in 2010

	Doğan	Çalık	Çukurova
National Terrestrial Television	Kanal D, CNN-Türk, Star	ATV	Show TV
Cable/Satellite	Dream, Fun TV, Galaxy		Sky Türk, Digi-Türk, Lig TV
Radio	Hür FM, Radyo CNN Türk, Joy Radio, Joy Türk		Alem FM
Newspaper	Hürriyet, Milliyet, Posta, Radikal, Referans, Turkish Daily News	Sabah, Yeni Asır, Takvim, Fotomaç,	Akşam, Güneş, Tercüman

¹² Mavise, < <http://mavise.obs.coe.int/country?id=32>, June, 2009.

¹³ 08-33/411- The Authority of Competition which was established in 1994 to enforce the Act no. 4054 on the Protection of Competition has announced that the case has been considered and decided that there is no need for taking any proceedings under the Competition Act. <<http://www.rekabet.gov.tr/index.php?Sayfa=kararenliste>.

¹⁴ Decision no:02-64/803-325; Decision no:08-69/1122-438 <<http://www.rekabet.gov.tr/index.php?Sayfa=karakarliste>.

	Doğan	Çalık	Çukurova
Publishing	Online, magazine book and music publishing, print distribution	Online, magazine book and music publishing, print distribution	Online, magazine and book publishing
Other media	Production, DHA News Agency	Production, Türkuaz News Agency	Production, Media Marketing
ICT	Telecoms, cable operator	Telecoms	Cable operator, GSM operator (Türkcell, Azercell, Moldcell)
Non-Media	Banking, finance, energy, automotive, health, institutions, commerce	Mining Industry, Textile Energy, Finance(Aktif Bank) Construction	Banking, finance, insurance, steel, automotive, commerce, manufacturing

The Present State of the Public Service Broadcaster

With the deregulation movement, Turkey's first and sole public service television broadcaster TRT's audience share and advertising revenue fell dramatically, by almost 50 percent, making the public broadcaster more dependent on state funding. Moreover, it has lost much of its experienced staff as they were offered better positions at the new private channels. Although TRT has been regaining viewers in recent years, the audience share figures are dominated by the leading three private broadcasters. TRT has been criticised as being unmanageable in terms of activities and personnel¹⁵, much too bureaucratic and financially weak¹⁶ in comparison to similar broadcasters. Currently TRT has five national, one regional and three international television channels (TRT1, general; TRT2, news, art, culture; TRT3, sports; TRT4/TRT-KIDS education; TRT 6, broadcasts in languages other than Turkish e.g. Kurdish; TRTGAP, regional for the South Eastern region of Turkey; TRT-INT, for the Turkish population in Europe; TRT-TÜRK, beamed to Central Asia, TRT- AVAZ directed to the people who speak Turkish in Middle Asia, the Turkic Republics and the Balkans).

The European Union and Media Concentration

Advances in media technologies in the 1980's coupled with the deregulation of media markets produced dramatic changes in the structure of the European media

¹⁵ TRT personnel exceed 8000. However, it is claimed that it could be run with 1,500 people

¹⁶ In 2004 TRT declared a total income of € 230 million with its total expenses being €265 million.

industry. Media companies have engaged in mergers and acquisitions to obtain the necessary financial capital, and governments have aided industry concentration by relaxing ownership rules. In return the media systems have become increasingly driven by profit-oriented cross media groups.

The European Parliament is the most conspicuous organ within the European Union which has repeatedly expressed its concern about the threat media concentration presented to media pluralism. According to the European Parliament media concentration is a threat to democracy, the freedom of speech and pluralist representation.¹⁷ The issue of media concentration was first placed on the agenda of the European Commission by the European Parliament in the 1980's. The European Parliament launched a debate on the regulation of media markets. Two party groupings, the Party of European Socialists (PSE) and the European People Party (EPP) led this debate in two separate reports.¹⁸ The 1980 PSE Report argued for legislation which would protect public service broadcasters and prevent media concentration. On the other hand the 1980 EPP Report assessed the potential of the European market for economic growth and jobs. The latter recommended the establishment of a pan-European broadcaster modeled on Luxembourg's RTL which would report on European affairs. The European Commission supported for a pan-European channel, however it stated that it was not feasible due to the costs involved. As Harcourt asserts the Commission used the *1983 Communication* to outline its own developing approach to media market regulation. This included a general regulatory framework for new technologies, harmonisation of technical standards and measures for European content production. The Commission published its 1984 Green Paper *Television Without Frontiers*. The Green Paper looked remarkably different to the initiative of the European Parliament. Humphreys declared that the Paper received substantial input from large media groups and the advertising industry.¹⁹

The key focus of the Green Paper was the liberalization of cross-national broadcasting. Shortly after the release of DG III's *Television Without Frontiers* Green Paper (1984), the European Parliament produced a number of requests for media concentration legislation which could accompany the liberalising *Television Without Frontiers Directive*. The European Parliament presented four demands to the European Commission during negotiations leading up to the 1989 *Television Without Frontiers Directive*: a 1985 Resolution; a 1986 Resolution; a 1987 resolution and two amendments to the Draft Directive TWF in the *Barzanti Report*. However, when the *Television Without Frontiers Directive* was ratified by the Council in 1989, it contained no provisions for anti-concentration measures. Harcourt claims that the *Television Without Frontiers Directive* contained only one very limited technical measure which indirectly affects media concentration. Following the ratification of the *Television*

¹⁷ Alison Harcourt, **The European Union and the Regulation of Media Markets**, Manchester, Manchester University Press, 2005, s.64.

¹⁸ Harcourt, *Ibid.*, s.62-63.

¹⁹ Peter Humphreys, **Mass Media Policy in Western Europe**, Manchester, Manchester University Press, 1996, s.268-272.

*Without Frontiers Directive*²⁰ the European Parliament again took issue with the Commission over media concentration. The European Parliament published three resolutions and five reports on media concentration between 1990 and 1992. The 1990 European Parliament Resolution on media take-overs and mergers states ‘restrictions are essential in the media sector, not only for economic reasons but also and above all, as a means of guaranteeing a variety of sources of information and freedom of press. In response, the European Commission in 1992 launched a wide consultation process and released its first Green Paper on the issue titled *Pluralism and Media Concentration in the Internal Market*.

As Harcourt claims in the 1992 Green paper, the Commission, as it had with the *Television Without Frontiers Directive*, framed media concentration as an issue of the internal market and it declared that pluralism is not stipulated in the Treaty of Rome.²¹ Therefore European Union competition law is inadequate for ensuring pluralism. The European Parliament criticised the 1992 Green Paper and urgently called restrictions on European media ownership. The Commission concluded in 1994 that it is primarily up to the member states to maintain media pluralism and diversity.

In October 1994 Directorate General XV (Internal Market) published a second Green paper entitled *Follow Up to the Consultation Process Relating to the Green Paper on ‘Pluralism and Media Concentration in the Internal Market- an Assessment of the Need for Community Action’*.²² Harcourt emphasizes that the Green paper differed from the first in that it noticeably concentrated upon the ‘information society’ and it was argued that national restrictions on media companies constrict the growth of the ‘information society’ within the Single Market²³.

In September 1995 Commissioner Monti gave a speech before the Cultural Committee in which he declared himself to be personally in favour of an initiative which would seek to ‘safeguard pluralism’. He also promised to the European Parliament that the Commission would embark on a directive for media ownership.

In 1996 a proposal for a Directive on media concentration was submitted, but a major objection was raised. Harcourt claims that the submission of the media concentration draft was politically ill-timed as it coincided with the renewal of the 1989 *Television Without Frontiers Directive*. The draft directive on media concentration was confidently resubmitted to the College of Commissioners on March 12, 1997. This time the word ‘pluralism’ was omitted from its title. Harcourt asserts that objections again followed due to the intense lobbying against the initiative, in particular by News International, Springer and ITV. Some scholars like Çaplı assert that the draft directive

²⁰ Council Directive 89/552/EEC of 3 October 1989.

²¹ Harcourt, *op.cit.*, s.66-70.

²² Commission of the European Communities, “Follow Up to the Consultation Process Relating to the Green Paper on ‘Pluralism and Media Concentration in the Internal Market- an Assessment of the Need for Community Action’”.COM(94)353. Brussels,05.01.1994.

²³ Harcourt, *op.cit.*, s.73-74.

on media concentration was withdrawn as a result the European Union's lack of authority on this issue.²⁴

The draft directive on ownership was never again resubmitted to the College of Commissioners. However, the convergence initiative went a head. In November 1997, the Directorate General XIII which works on the initiative on convergence between telecommunications and media policies since 1995's, published its Green Paper on the *Convergence of the Telecommunications, Media and Information Technology Sectors, and the Implications for Regulation*. Regarding new services, the paper states: 'Any use of licensing or any regulatory limitation on market entry represents a potential barrier to the provision of services, to investment and to fair competition and should therefore be limited to justified cases'.²⁵

Unsurprisingly, the Convergence Green Paper found support from large media conglomerates which favour greater liberalisation of media markets, and *A Common Regulatory Framework for Electronic Communications Networks and Services Directive* came into force in July 2003.²⁶ The main aim of the Directive is to strengthen competition by making market effect easier and by stimulating investment in the sector. In this new regulatory framework the Directive gives responsibility to the national regulatory authorities to establish a harmonised framework for the regulation of electronic communications networks and services.

Harcourt feels that the *Framework Directive* is another attempt that will increase media concentration and will be a further challenge to pluralism, and democracy²⁷. The answer of the Commission in such cases of displeasure is that the European Commission does not have immanent authority to regulate media concentration in Europe, and it is the task of the member governments to protect pluralism, and regulate media concentration.

In 2007 the *Audiovisual Media Services Directive* was accepted to revise the *Television Without Frontiers Directive* adopted in 1989, and first amended in 1997. The purpose of the new Directive was to achieve a modern, flexible and simplified framework for audiovisual media content. *The Audiovisual Media Services Directive*²⁸ distinguished media services as linear and non-linear services, and not surprisingly media concentration is dismissed with three types of measures. According to the new Directive these conditions should be realized in order to establish media pluralism:

- the independence of the national regulatory body responsible for implementing the Directive;

²⁴ Çaplı, **op.cit.**, s.117.

²⁵ [Archive of European Integration](http://www.aei.pitt.edu/983-June,2009) <http://www.aei.pitt.edu/983-June,2009

²⁶ Council Directive 2002/21/EC on a Common Regulatory Framework for Electronic Communications Networks and Services . Official Journal of the European Communities L 108 OF 24.04.2002.

²⁷ Harcourt, **op.cit.**, s.13-18.

²⁸ European Parliament and Council Directive 2010/13/EU of 10 March 2010.

- the right for television broadcasters to use 'short extracts' in a non-discriminatory manner;
- the promotion of programmes produced by independent audiovisual production companies in Europe (in the previous TVWF Directive it already exists).

Media Concentration and Competition Policy of the European Union

According to many scholars like Doyle²⁹, Humphreys³⁰, Harcourt³¹ rivalry between different Directorate Generals in the Commission, political pressure from national governments, and industry lobbying all impeded progress towards harmonisation of anti-concentration rules at the European Union level. On the other hand, some scholars such as Wheeler³² assert that the European Union blocked the largest proposed media mergers on grounds of competition. According to the Competition Policy, the European Commission has direct authority to make decisions which can only be reviewed by the European Court of Justice. Within the Commission, Directorate General IV has responsibility for competition decisions and houses the Merger Task Force. Due to the fact that media falls under cultural policy, Directorate General IV has over the years developed a special policy taking into consideration both cultural and economic concerns. Directorate General IV first applied Competition Law to the broadcasting industry according to articles 85, 86, and 90³³ of the Treaty of Rome³⁴. From 1990 onwards, merger decisions were made under the 1989 Merger Regulation, although joint venture decisions continued to be made under Articles 85 and 86. The Merger Regulation required proposed mergers with global sales revenue totalling over €five billion to apply to Directorate General DG IV for permission. In April 1997, the Merger Regulation was amended to include joint venture decisions, and thresholds were lowered from €five billion to € two and a half billion.

In the case of mergers it is possible to state that the Commissions' main concern is that mergers do not restrict markets and that access to key elements such as content or technology is not affected. There are many cases where the Commission investigates, approves or rejects the mergers³⁵. However, Doyle claims that the competition law

²⁹ Gillian Doyle, "Undermining Media Diversity", Katharine Sarikakis (der.), **European Studies: An Interdisciplinary Series in European Culture, History and Politics**, Amsterdam, New York, Rodopi B. VÇ, 2007, s.145.

³⁰ Humphreys, Peter, "The EU and The Future of Public Service Broadcasting", Katharine Sarikakis (der.), **European Studies: An Interdisciplinary Series in European Culture, History and Politics**, Amsterdam, New York, Rodopi B. V C., 2007, s.98.

³¹ Harcourt, **op.cit.**, s.66-76.

³² Mark Wheeler, "Supranational Regulation: Television and the European Union", **European Journal of Communication**, 19 (3), s. 349-369.

³³ Article 85 prohibits private sector anti-competitive agreements, article 86 prevents the abuse of dominant position and articles 85 and 86 are applied to the public sector by Article 90

³⁴ EEC Treaty, 25 March 1957.

³⁵ Some of the recent acts of Commission on media mergers are: -22.01.2010 Commission approves proposed joint venture between SevenOne Media, G+j Electronic Media Service, Tommorrow Focus Portal and IP Deutschland -9.09.2009 Commission clears proposed music

serves to restrict dominant market positions or anti-competitive behaviour, but it is not specifically designed to encourage or safeguard pluralism.³⁶ Therefore many scholars frequently suggest that there is a definite need for European legislation on media concentration as it is rather difficult to use competition rules to govern media pluralism.³⁷

Discussion and Conclusion

In Turkey the media system is increasingly driven by profit-oriented groups in 2010. These groups are in fact conglomerates as they have activities other than media such as banking, finance, energy, automotive, health, education, commerce and manufacturing, etc. Their television channels are all targeted to either gain political power or to turn their investments into profitable enterprises. The concentration of ownership of the media system introduces barriers to the entry of new market players, thus resulting in the uniformity of media content. Conflicts of interest between media groups and political power are all detrimental to free competition and pluralism and this is against the essence of the deregulation movement.

The Turkish Media Law amended in May 2002, sets no constraints on the number and variety of media activities, except for an annual average audience threshold which is too high to achieve. It also increased the foreign capital investment limit to 25 percent and allowed media enterprises to enter public bidding processes. Consequently, the amendments have not prevented media concentration but have instead enabled some media groups to further enlarge their investments and develop closer relationships with the government.

If we look at the European Union's policy on Media Concentration and Pluralism it is clear that the European Union is aware of the danger media concentration might lead to. However, it is not possible to state that in a coordinated way all the bodies in the European Union act in consensus against media concentration. The European Parliament, for example, votes in favour of tough restrictions on European media ownership. The European Commission, on the other hand, is the body which frequently reminds us that the Commission does not have immanent authority to regulate media concentration in Europe. In other words, the Commission lacked a legal basis upon which to base its ownership directive. Unfortunately, the existing Competition Laws are not fully adequate to reign in media concentration due to a lack of relevant European regulations governing it.

The Directives including the recent *Audiovisual Media Services Directive (2007)* aiming at liberalising media in the European Union all lack media concentration legislation. On the other hand, the long waited directive on media concentration was

joint venture between Bertelsmann and Kohlberg Kravis Roberts -29.01.2009 Commission opens in-depth investigation into proposed acquisition of joint control of Retriever Sverige by Bonnier and Schibsted <<http://www.europa.eu.int>.

³⁶ Doyle, *Ibid.*, s.152.

³⁷ Campaign For Press and Broadcasting Freedom, 2001, <<http://www.culture.gov.uk/PDF/media-own-cpb,May,2010>.

withdrawn after a few attacks of intense lobbying against the directive. Therefore we might say briefly that the European Union's present policy on media concentration can hardly be an initiative to stimulate pluralism in the Turkish broadcasting system. The ongoing debate on media concentration in the European Union proves that similar situations are being experienced in different countries of Europe, and that media pluralism seems to be being sacrificed in favour of market forces in many countries.

As a last remark, to avoid the unhealthy domination of the media in Turkey, and on a larger scale in the European Union, policy instruments other than the Competition Law must be introduced. As media concentration might be a serious threat to democracy, freedom of speech and pluralist representation, public interest in decision making as well as economic responsibility should be sensitively considered.

References

Anonim, "Reklam Gelirleri, **Akşam Gazetesi**, 26th. January 2009.

Archive of European Integration <[http://www.aei.pitt.edu/983-\(June,2009\)](http://www.aei.pitt.edu/983-(June,2009))>.

Gülseren ADAKLI, **Türkiye'de Medya Endüstrisi: Neoliberalizm Çağında Mülkiyet ve Kontrol İlişkileri**, Ankara, Ütopya Yayınevi, 2006.

Aysel AZİZ, **Radyo ve Televizyonla Eğitim**, Ankara, Ankara Üniversitesi Eğitim Fakültesi Eğitim Araştırma Merkezi Yayınları, 1982.

Campaign For Press And Broadcasting Freedom <[http://www.culture.gov.uk/PDF/media-own-cpb\(May 2010\)](http://www.culture.gov.uk/PDF/media-own-cpb(May 2010))>.

Commission of the European Communities, 'Pluralism and Media Concentration in the Internal Market' Green Paper, COM(92)480, Brussels, 23.12.1992.

Commission of the European Communities, 'Follow Up to the Consultation Process Relating to the Green Paper on 'Pluralism and Media Concentration in the Internal Market- an Assessment of the Need for Community Action'.COM(94)353. Brussels,05.01.1994.

Council Directive 89/552/EEC Official Journal of the European Communities L298 of 3 October 1989.

Council Directive 97/36/EC Amending Council Directive 89/552/EEC, **Official Journal of the European Communities** L 202 of 30.07.1997.

Council Directive 2002/21/EC on a Common Regulatory Framework for Electronic Communications Networks and Services, **Official Journal of the European Communities**, L 108 OF 24.04.2002.

Bülent ÇAPLI, "**Turkey Television Across Europe: Regulation, Policy and Independence Turkey**", Strasburg Society Enstitute, 2005.

Gillian DOYLE, “Undermining Media Diversity”, Katharine Sarikasis (der.), **European Studies: An Interdisciplinary Series in European Culture, History and Politics**, Amsterdam, New York, Rodopi B. VC., 2007.

European Economic Community Treaty, 25 March 1957.

European Parliament and Council Directive 2010/13/EU of 10 March 2010.

European Union<<http://europa.eu.int>.

Alison HARTCOURT, **The European Union and the Regulation of Media Markets**, Manchester, Manchester University Press, 2005.

Peter HUMPHREYS, **Mass Media Policy in Western Europe**, Manchester, Manchester University Press, 1996.

Peter HUMPHREYS, “The EU and The Future of Public Service Broadcasting”, Katharine Sarikasis (der.), **European Studies: An Interdisciplinary Series in European Culture, History and Politics**, Amsterdam, New York, Rodopi B. V C., 2007.

Mavise,< <http://mavise.obs.coe.int/country?id=32>, June,2009.

Medyatava, < [http://www.medyatava.com/haber.asp?id=62824-\(June,2009\)](http://www.medyatava.com/haber.asp?id=62824-(June,2009)).

Cem PEKMAN, “Medya Sahipliğinin Düzenlenmesi Sorunu: Küresel Çerçeve ve Türkiye Örneği”, Mine Gencil Bek ve Deirdre Kevin (der.), **Avrupa Birliği ve Türkiye’de İletişim Politikaları: Pazarın Düzenlenmesi, Erişim ve Çeşitlilik**, Ankara, Ankara Üniversitesi Basımevi, 2005.

Ratem Report, <[http://www.ratem.org/2009/RATEM_RDTVSEKTORRAPORU.doc-\(June,2009\)](http://www.ratem.org/2009/RATEM_RDTVSEKTORRAPORU.doc-(June,2009)).

Rekabet Kurumu <<http://www.rekabet.gov.tr/index.php?Sayfa=kararenliste> (June 2009).

Mustafa SÖNMEZ, **Meyda, Kültür, Para ve İstanbul İktidarı**, İstanbul, Yordam Kitap 2008.

Nilüfer TİMİSİ, “**Medyada Yoğunlaşma ve Şeffaflık Paneli**”, 20 Mart 2010, <http://www.medyadadergiler.ankara.edu.tr/23/668/8514.pdf>> 14 Aralık 2004.

Mark WHEELER, Supranational Regulation: Television and the European Union, **European Journal of Communication**, vol.19, no. 3, August 2004.