WAN-IFRA
World Association of Newspapers and News Publishers

CIMA
CENTER FOR INTERNATIONAL MEDIA ASSISTANCE

Eroding Freedoms:
Media and Soft Censorship in Montenegro

www.wan-ifra.org

Eroding Freedoms: Media and Soft Censorship in Montenegro

PUBLISHED BY:
WAN-IFRA
96 bis, Rue Beaubourg
75003 Paris, France
www.wan-ifra.org

WAN-IFRA CEO:
Vincent Peyrègne

PROJECT MANAGER:
Mariona Sanz Cortell

CCE RESEARCHERS:
Ana Vujosevic
Vladimir Vuckovic

EDITOR:
Thomas R. Lansner

CCE EDITOR:
Daliborka Uljarevic

PROJECT PARTNERS:
Center for International Media Assistance
National Endowment for Democracy
1025 F Street, N.W., 8th Floor
Washington, DC 20004, USA
www.cima.ned.org

Open Society Justice Initiative
224 West 57th Street
New York, New York 10019, USA
www.opensocietyfoundations.org

RESEARCH PARTNER IN MONTENEGRO:
Centre for Civic Education (CCE)
Njegoseva 36/I
81000 Podgorica, Montenegro
www.cgo-cce.org

SUPPORTED BY:
Open Society Foundations

DESIGN AND PREPRESS:
Snezana Vukmirovic, Ivan Cosic, Plain&Hill Serbia

NOTE ON REPORT RESEARCH AND METHODOLOGY

This study was conducted in 2015 by Ana Vujosevic and Vladimir Vuckovic, who prepared this report under the supervision of Daliborka Uljarevic. The report relies on information collected through desk research and analyses of the existing literature and legal framework, as well as of materials produced by national regulatory bodies, reports of international and domestic non-governmental organisations and media archives. The researchers also conducted semi-structured interviews with several prominent editors in the country, seeking to cover the full spectrum of opinions across Montenegro's polarized media landscape. Unfortunately, editorial boards of the state-owned RTCG, the daily *Pobjeda* and online portal *Analitika,* each a supporter of the current government, declined to be interviewed.

Eroding Freedoms: Media and Soft Censorship in Montenegro is one of a series in the ongoing project on soft censorship around the world led by the World Association of Newspapers and News Publishers (WAN-IFRA) and the Center for International Media Assistance (CIMA). Country reports on Hungary, Malaysia, Mexico, and Serbia were issued in 2013-14, as well as a global overview, *Soft Censorship, Hard Impact*[1], written by Thomas R Lansner, who also edited this update and is general editor for the series.

Table of Contents

1. Executive Summary: Systematic Erosion of Media Freedoms.......... 6

2. Key Findings.......... 8

3. Key Recommendations.......... 9

4. Media Freedom and Soft Censorship.......... 10

5. Montenegrin Media Environment:
Highly Politicised/Deeply Polarised 12

Legal and institutional framework.......... 12

6. Public Spending for Media: Unregulated,
Uncontrolled and Opaque 14

a) State aid 15

b) Advertising by public institutions.......... 16

c) Project financing via public competitions.......... 18

d) Public procurement.......... 18

7. Conclusion.......... 19

8. Endnotes.......... 20

9. Bibliography.......... 22

1. Executive Summary: Systematic Erosion of Media Freedoms

In Montenegro, soft censorship is exercised primarily through politicised, discretionary and non-transparent distribution of public money and subsidies to media. Lack of transparency and standard and equitable procedures in allocation of public funding seriously distorts the media market, improving business prospects of some outlets and endangering the existence of others. This is directly related to how favourably or critically media outlets report on governmental activities.

The media landscape in Montenegro is deeply and widely politicised. A sharp division between "supporters" and "critics" of state policies has grown more vivid in recent years. There are on-going attempts to diminish the influence of some media outlets on the Montenegrin public. "Hard censorship" has included violence against journalists—the murder of the editor-in-chief of daily *Dan,* Dusko Jovanovic, on 27 May 2004, remains unresolved, as do most attacks on journalists and on media property, which doubtless evokes self-censorship among media practitioners concerned with self-preservation.[2]

Much more common in recent years is soft censorship: indirect, often financial pressures, intended to weaken the capacities and even threaten the viability of targeted media outlets that criticize the government. "Soft censorship" is defined as an attempt by government to influence media reporting through various forms of pressures, without recourse to legal bans, open censorship of news content or direct physical attacks against media infrastructure or journalists. The notion of "soft censorship" as a form of official pressure on media is detailed in a 2005 paper by the Open Society Justice Initiative. It describes three principal forms of soft censorship: abuse of public funds and monopolies, abuse of regulatory and inspection authorities, and paralegal pressures.[3] All these exist in Montenegro today. Additional reports by WAN-IFRA and the Center for International Media Assistance have raised awareness of this escalating problem.[4]

This paper catalogues the forms and maps the extent of soft censorship by Montenegro's state and public institutions against media outlets and media practitioners. This is done primarily through the lens of finances, which is the dominant means of soft censorship in the country. Included is an overview of instruments that facilitate or limit official financial support: allocation of advertising services by public institutions to favoured media; selective distribution of subsidies and other state aid; paid content; and other forms of administrative and technical assistance or obstruction.

The study covers public institutions relevant to media and soft censorship across the three branches of government, as well as other socio-political actors significant to understanding this problem in the Montenegrin context. The research team faced several challenges; no such research has been conducted before, and information from public sources was in many cases limited or released only very slowly. Moreover, the topic is taboo to many journalists who fear criticizing media owners or the government, and who sometimes have scant awareness of the mechanisms and impact of soft censorship.

The lack of transparent and consistent procedures for distribution of public funds to media has substantial influence on media freedoms in Montenegro. This report presents evidence that public institutions have sought to manipulate media outlets and influence their editorial policies by selective and non-transparent financing. This also seriously undermines competition and inhibits development of a sustainable media market. Opacity in state media funding is aggravated by an inadequate implementation of the legal framework for media support, further opening opportunities for official actors to exploit media for partisan purposes.

This report describes various means for distributing public funding to media through which political actors exercise control or pressure on media content and viability. It analyses mechanisms of potential influence of public institutions on media editorial policies, and gives examples of abuse of public funds to manipulate media reporting to pursue partisan political goals.

This report's key findings summarize challenges concerning soft censorship in Montenegro. Its recommendations urge actions that would reverse the erosion of media freedom in Montenegro—and improve prospects for development of free independent and pluralistic media that could provide the accurate, impartial reporting on activities of the government, political parties and other institutions required to promote democratisation of Montenegrin society and governance.

Country profile

Montenegro Country Data	2015
Population	647,073
Adult literacy rate	98.7%
Gross national income (GNI) per capita	USD 15,000
Urban/rural population	64 / 36%
Mobile subscription penetration (SIM cards)	155.72%
Internet access (households)	60.5%
Corruption perceptions score	76/175

Sources: World Bank, Transparency International, Monstat, CIA World Factbook, Ministry for Information Society and Telecommunication of Government of Montenegro

2. Key Findings

1. Public financing of media in Montenegro is unregulated, uncontrolled and opaque. Authorities use biased allocation of state funds as indirect pressure on the media, undermining market competition and blocking development of free, independent and impartial media.

2. Montenegro's legal framework provides no specific regulation on allocation of public funding to media. No institution is responsible for monitoring how these monies are spent and distributed. This allows government intervention in the work of the media in Montenegro through non-transparent and selective allocation of public funds.

3. Public institutions in Montenegro offer limited or no public record of public spending on advertising or other forms of official media financing.

4. Selective and partisan distribution of public funding to media contributes to polarization of the media scene, undermines the journalists' code of conduct,[5] and hinders formation of a unified self-regulatory body by Montenegrin media.

5. Media financing from public funds is difficult to track, but there is a clear evidence that authorities "reward" supportive media through selective allocation of advertising and other public funding—and "punish" critical media by withholding the same.

6. The lack of reliable readership and viewership data for Montenegro's media outlets makes impartial assessment of advertising choices challenging.

3. Key Recommendations

1. Distribution of public financing must be based on the principle of transparency and follow public procurement regulations. Public institutions' spending on advertising must be grounded on impartial cost-benefit criteria regarding audience reach and size, as well as public trust.

2. Clear oversight mechanisms for public financing and allocation of state aid to media must be established. Public funding must be accessible to all media that meet clear criteria, via public calls or tenders under identical conditions for all interested media.

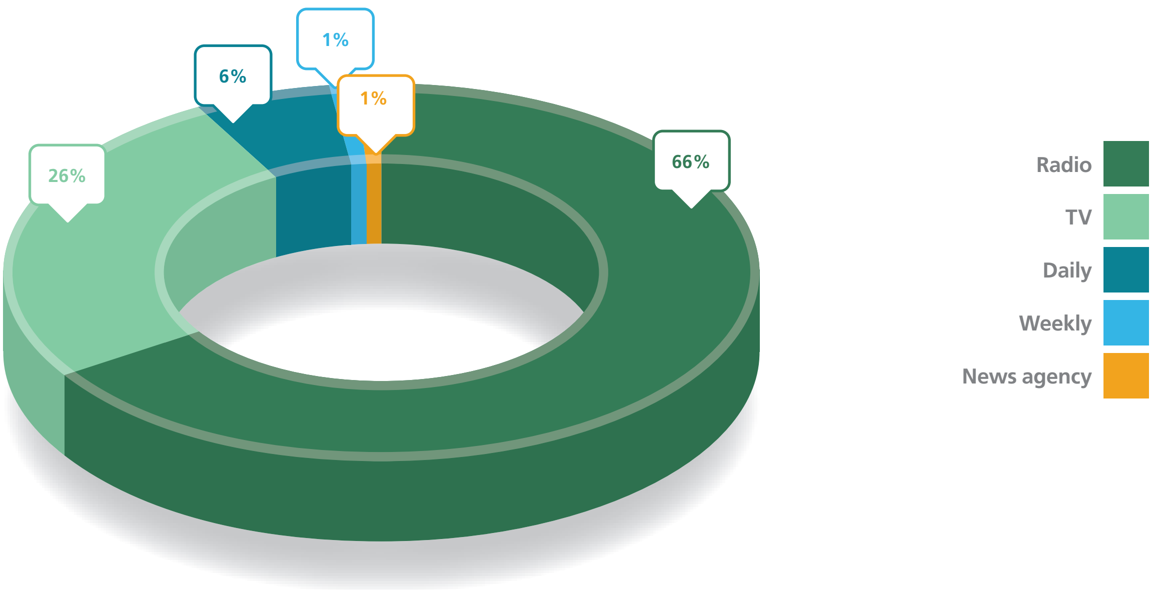
3. All spending in media by authorities should be published on the websites of public institutions to offer transparency of public expenditures, and to allow evidence-based analyses of public funding of media and its potential misuse to manipulate editorial policies.

4. A unified self-regulatory body that encourages full observance of the journalists' code of conduct should be established to promote media integrity and credibility and help protect media independence.

5. Independent and reliable readership and viewership data for Montenegro's media outlets should be collected and serve as bases for fair and impartial allocation of official advertising.

4. Media Freedom and Soft Censorship

Numerous media companies and outlets serve Montenegro's 647,000 inhabitants. The official Agency for Electronic Media lists 21 TV channels in Montenegro, 55 radio stations, five daily papers and one weekly as of 2015.[6] Montenegro's single news agency is the privately owned MINA news agency. Despite their increasingly popularity, there is no official comprehensive list of web portals, or of online magazines.



Types of Media Outlets in Montenegro (by percentage, excluding web portals)

Despite this wide range of media outlets, challenges to financial sustainability and deep polarisation limit the media sector's economic and political independence from the state. Media pluralism is also constrained by these same factors, and alternative views are often marginalized.

Montenegro's legal and institutional framework regarding freedom of expression and media freedom and independence is formally well developed. While largely aligned with international standards and recommendations, it remains deficient in some areas like public procurement. This generally positive normative framework does not always indicate good practice, however. Media outlets and individual journalists frequently encounter severe limitations to their rights in their everyday work. Research shows that media freedom in Montenegro has steadily deteriorated over the past few years. The majority of Montenegrin journalists hold negative views regarding respect for media freedom in their country.

The 2011 OSCE report on Montenegro, "Media, media freedoms and democracy", collected information from editors and journalists.[7] It cites accusations and pressure from political parties as the most common form of violation of media freedoms, followed by denials of the right to information of public importance, accusations and pressures by the government, and accusations by other media. Based on the journalists' responses, the report concludes that the actors most responsible for violating media freedoms are powerful political figures, government on the national and local levels, individuals with economic power, and political parties.[8] "In Montenegro, there is a wrong image that the government is the only one exercising censorship. It is entirely the same case with the private outlets," editor-in-chief of the *Antena M* radio station, Darko Sukovic, observed, adding that politicians and business interests sometimes forcefully intervene to explicitly influence editorial policies and media content.[9]

The international non-governmental organisation Reporters without Borders ranked Montenegro 114th of 180 countries assessed in its 2015 World Press Freedom Index.[10] The report considers several factors: level of abuse of media, pluralism, independence, self-censorship, legal framework, transparency, and infrastructure. The only Balkan country ranking lower Montenegro on this list is Macedonia, ranked 117th. The Freedom House "Nations in Transit 2015" report reduced Montenegro's rating for independent media from 4.25 to 4.50 (on a scale of 1-7, with seven being the worst score).[11]

The only data on allocation of public funds for media in Montenegro are collected by the NGO Centre for Civic Education (CCE), which also prepared this report. These data indicate that public bodies do not provide equal opportunities for all media in Montenegro to access public funds.[12] The data are offered neither on websites of public institutions, nor in any other easily available manner. CCE gathered extensive, but still incomplete, data by filing requests through right to information statutes. Pre-financial crisis estimates suggested that public bodies accounted for over 40 percent of total media advertising spending;[13] that share would have grown during the economic crisis, as most commercial entities cut advertising budgets.

Furthermore, no authoritative and detailed readership and viewership data are available. Some calculations can be made based on financial reports that media outlets submit to the Tax Office. Also useful, but far from conclusive, are public opinion polls that occasionally gather audience information, as well seek to measure trust in media outlets.

5. Montenegrin Media Environment: Highly Politicised/Deeply Polarised

Montenegro's media scene has developed quite dynamically over the past decade and is still evolving. The launch of many new media outlets with new voices was a positive sign. But the Montenegrin media landscape is closely intertwined with partisan political activity, and the country's sharp political divisions are mirrored by media polarisation. Before Montenegro achieved independence in June 2006, the national debate and media were split largely on the issue of state sovereignty.

Today, the media scene is divided along different lines, primarily into those critical and supportive of the current government, which has ruled since Montenegro regained statehood. The Democratic Party of Socialists of Montenegro (DPS) has been the most powerful party since the introduction of multi-party system in 1991,[14] at least partially through its formidable and carefully cultivated influence on state-owned and other media.

Pro-government media are either directly influenced by the ruling circles or defend their policies to promote financial or business interests. Some other media outlets remain willing to investigate and expose alleged governmental corruption, the concentration of political power in a small circle of people, and perceived failures of democratic practices in Montenegro. But there is now a serious threat to the survival of those media whose editorial policy is critical of the government, and whose reporting might diminish support for the ruling party.

The uneven and biased allocation of public funds to selected media is a soft censorship instrument of particular impact and concern. Several annual reviews, including "Equal Chances to All Media in Montenegro?"[15] and "How Much and to Whom do the Citizens of Montenegro Pay for Advertising?"[16] have unambiguously demonstrated state support for pro-government media, and efforts to financially exhaust, through various mechanisms and uneven treatment, media critical of the ruling regime.[17]

A first victim of this highly partisan environment is the journalists' code of conduct. Montenegrin media often fail to meet even the most basic professional and ethical standards.

Legal and institutional framework

Montenegro has instituted a series of legal and institutional guarantees for freedom of expression and media rights. The Constitution, Media Law, Law on Electronic Media, Law on Digital Broadcasting, and Public Broadcasting Services Law all guarantee freedom of speech, freedom to launch media enterprises, and editorial independence of press and broadcasters from the state. These laws form the basis for the work of independent regulatory agencies that oversee media matters.

Two further laws provide legal and institutional framework for state aid, including media financing from public resources: the Law on the Protection of Competition, and the Law on Control of State Aid. The Law on the Protection of Competition, in force since 2012, is the basic document regulating the means, procedures and measures for the protection of competition in Montenegro. The Law applies to all constraints of competition by market participants on the territory of Montenegro, as well as to similar actions conducted outside its territory but with the goal or consequence of undermining competition in Montenegro. The Law on the Protection of Competition established the autonomous Montenegrin Agency for the Protection of Competition to oversee its implementation. The Agency possesses various powers to protect competition, including assessment of agreements between market participants, investigations of possible abuses of dominant market position, and evaluation of permissibility of concentration of market share.

The Law on the Control of State Aid defines state aid as "direct spending, lesser revenues or diminished wealth of the state or municipality that undermines or could undermine free market competition and affect the trade between Montenegro and the European Community or a member of the Central European Free Trade Agreement (CEFTA), by privileging some market actors, products, or services". Article 3 defines the provider and the recipient of state aid. The provider can be the state or local government body or a legal person in charge of collecting or managing revenues stipulated by the law. The recipient, in turn, can be a legal or a natural person engaged in production, trade, or provision of services on the territory of Montenegro.

State aid that fosters unfair competition can diminish economic growth and weaken competitiveness.[18] The European Council and European Commission has repeatedly emphasised that state aid should not obstruct efficient and fair functioning of markets.

To maintain independence, media must be economically sustainable. To ensure economic sustainability, the market in which media operate must follow the principles of a modern market economy and the rule of law. These bases of contemporary democratic society are strongly served by the protection of competition, which combines the dynamism of free markets and the obligation of the state to implement legal and regulatory mechanisms that protect free market competition from various form of abuse, both by the state itself and by private market participants.

6. Public Spending for Media: Unregulated, Uncontrolled and Opaque

Media in Montenegro are financed by private sources, mainly paid advertising, and to a lesser extent by state aid, which is nominally regulated by laws and regulations. There are many media outlets in a small market, whose total annual spending on advertisement is estimated to be EUR 8-9 million.[19] These revenues are insufficient to finance all existing media.

Funds allocated from the public budget to media are largely spent on advertising by public institutions, as well as on agreements for specific services aimed at better communication with citizens, such as information/public awareness campaigns. In a democratic society, the state ought to—and under the EU rules it must—allocate direct or indirect public funding in a fair and politically unbiased manner. In Montenegro, this is not now the case. In its Montenegro 2013 Progress Report, the European Commission expressed concern about the existence of "state aid and financing through advertising to a number of printed media, which is not paid in accordance to the rules on public procurement and can undermine market competition."[20]

Editor-in-chief of the daily newspaper *Dan,* Nikola Markovic, said that his paper is unable to obtain any information from the Government of Montenegro on criteria used to select media outlets for their advertisements. "Since *Dan* was founded, we were never able to get an official response from the Government of Montenegro or the regulations from the ministry in charge that would explain the system of allocating advertising funds," he said. "All of this suggests that in relation to the *Dan,* this process is neither fair nor transparent, and that the Government is instead using the advertising money to play 'sticks and carrots'. Obedient media are rewarded with advertisements, which creates unfair competition, and those of us who are critical of the authorities are being punished."[21]

Montenegro's legal and institutional framework regarding procurement procedure and equal treatment that facilitates fair competition is not compliant with European Union regulations and requires revision. Montenegro does not have specific rules on state funding to media, including advertising. This permits government interference in the work of Montenegrin media through non-transparent and selective allocation of public funds. The lack of rules on advertisement of public institutions enables abuse of public monies for political and personal promotion of state officials. The legal framework does not address the potential link between discriminatory public advertising and commercial viability, nor does it view advertising decisions as a possible tool for pressure on editorial policies. Not one public institution in Montenegro has made available information on the amount or details of advertising spending.[22] No agency oversees how these funds are allocated.

There are four main modes of media financing by public institutions:

- State subsidies and other direct assistance;
- Advertising by public institutions;
- Project financing via public competitions;
- Public procurement.

This report focuses primarily on the first two modes, which are the principal tools of soft censorship in Montenegro.

a) State aid

State aid represents all forms of funding from public resources. When allocated on a selective basis, it privileges certain recipients and undermines or threatens free competition. In Montenegro, state aid takes various forms, including direct subsidies and indirect aid such as loan guarantees, debt forgiveness, or tax breaks. A problem in applying these rules are the minimum reporting thresholds—there is no obligation to report and monitor state aid below EUR 10,000, which is why most subsidies to the media escape control or even public notice.

The government-appointed Commission for the Control of State Aid reported that state aid in Montenegro totalled EUR 28 million in 2014, of which EUR 3.5 million for culture and information. In 2013, state aid totalled to media EUR 100.3 million,[23] with EUR 4.9 million for culture and information; culture and information received EUR 3.5 million of aid in 2012 and EU 3.95 million in 2011.[24] The Ministry of Culture distributed the money through various programmes, including: "support to development of media pluralism", "public broadcasting services of Montenegro", and "broadcasting signals and transmission channels". Reports from the Commission for Control of State Aid list only total amounts in each category, without funding data for individual media houses. Another Commission report specifically mentions EUR 2.4 million allocated to the public national broadcasting service RTCG in 2014. The latest report on the allocation of state aid in Montenegro for 2014 also notes that official bank guarantees issued to the formerly state-owned—and still reliably pro-government—daily *Pobjeda* for a loan with Société Générale were activated when the newspaper failed to meet its payments. The guarantees are worth a total of EUR 1.5 million. Another guarantee for a loan with Erste Bank was also activated, worth EUR 3.7 million EUR.[25]

Pobjeda, which had majority state ownership until 2014,[26] received generous state aid. The total debt of *Pobjeda* on the day it was sold amounted to EUR 10.5 million, most of which (EUR 7.6 million) was owed to the state. In September 2014, the Ministry of Finance paid EUR 5.6 million for *Pobjeda's* loans with Société Générale and Erste Bank, having already paid EUR 1.7 million in 2011 and 2012 to Société Générale Montenegro for a loan *Pobjeda* could not repay. Altogether, the Government pumped tens of millions of euros into the daily to keep it afloat.

Editor-in-chief of the daily *Vijesti,* Mihailo Jovovic, notes that the daily *Pobjeda* received additional support as the Government has annually agreed to write off company debts in taxes and employee social contributions. In 2013 alone, the Government assumed responsibility for EUR 2.8 million *Pobjeda* owed in taxes and contributions on its employees' salaries. "Without any criteria or legal grounds, *Pobjeda* was funded by the taxpayers, by all of us," Jovovic said. "We were all financing the work of a daily which pandered only to one segment of the society."[27] He stressed that *Vijesti* has never received any state subsidies.[28]

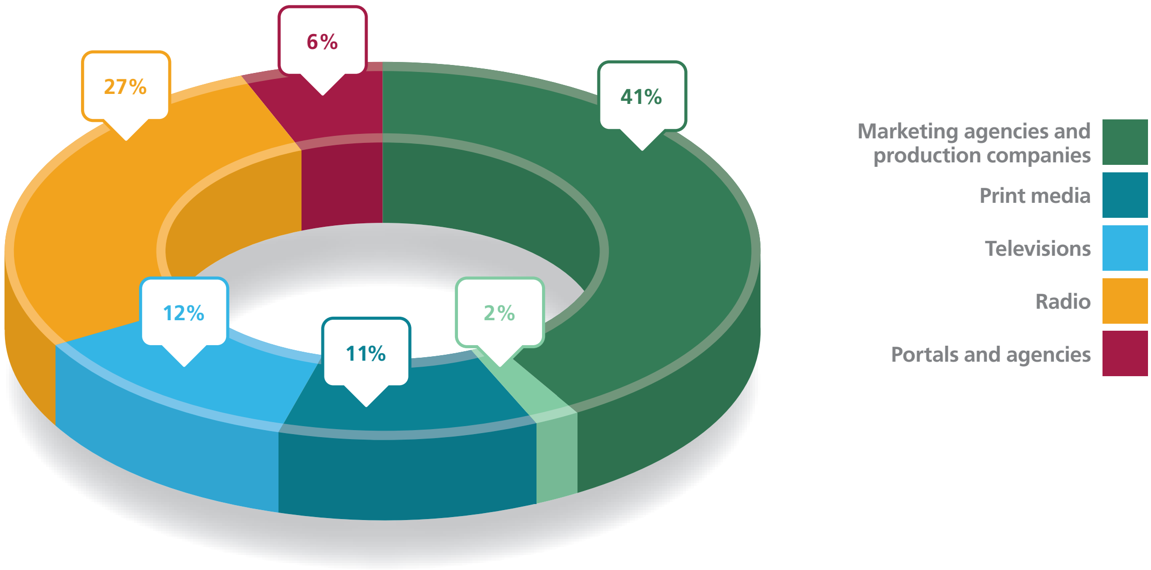
According to editor-in-chief of the web portal *Café del Montenegro (CdM),* Aleksandra Obradovic, "Most benefits from state aid reach public broadcasting service RTCG,[29] daily *Pobjeda,* and in a lesser amount, the web portal *Analitika.*"[30] Editor-in-chief of the *MINA* news agency, Milan Zugic, holds the same view.[31]

No other media appear on the list of state aid beneficiaries. Based on the interviews conducted with editors in Montenegro, it is apparent that state aid is not available to all media under clearly stipulated criteria, and no other paper or broadcaster could access this form of public support.

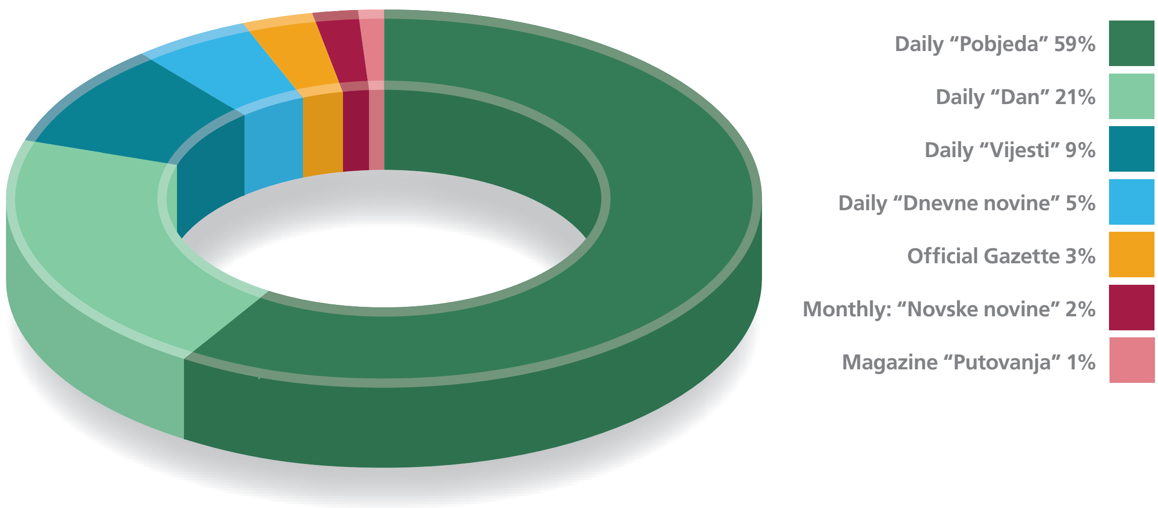
b) Advertising by public institutions

Studies conducted by the Centre for Civic Education (CCE) in 2011, 2012, and 2013, as well as the preliminary analysis of the data collected for 2014, show that advertising by public institutions in Montenegro lacks clear and consistent allocation criteria, and is awarded at the discretion of officials, often by direct agreement and without procedures stipulated by the Law on Public Procurement. The findings demonstrate attempts by the state to indirectly influence the media market, facilitated by the incomplete legal framework. Available data show that the government has spent at least EUR 2.64 million in 2011,[32] EUR 852,000 in 2012,[33] and EUR 2.2 million in 2013[34] on advertising and other media services. It should be noted that these figures are most likely a significant underestimate, as the data is not publicly available and some institutions refuse to disclose such information, despite their obligations under the Law on Free Access to Information. The response rate of institutions that responded positively to CCE's requests and submitted relevant information was 57 percent. As the total advertising market in Montenegro is around EUR 8-9 million, it is clear that the state is a very significant and perhaps dominant player on the advertising market. Its decisions can seriously affect trends on the media market—and quickly change the fortunes and determine sustainability of individual media enterprises.

According to editor-in-chief of the daily *Dan,* Nikola Markovic, "The examples of dailies *Dan* and *Vijesti* are excellent illustrations of how the government selects whom to reward with advertising revenue based on your editorial policy. The Government of Montenegro and its ministries have for a long time justified their decision to allocate most advertising commissions to the daily *Pobjeda* by the fact that the state owned the paper. Although this was equally detrimental to fair competition, it was perhaps a more or less passable excuse, but the government lost it the moment *Pobjeda* was privatized. Nevertheless, there has been no decline in the amount of advertising going to *Pobjeda.*"[36]



Graph: Percentage of state media spending [excluding direct subsidies] by sector for 2013[35]



Graph: Share of state payments for advertising and campaigns to print media outlets in 2013[37]

This selective advertising policy, paid for by public money, unambiguously influences the capacity of the media sector to produce high quality content, improve the skills of its staff, and advance technological processes and innovation. The situation is especially acute in smaller media enterprises that must actively support government policy to retain state advertising they require to remain viable.

Editor-in-chief of the web portal *Café del Montenegro (CdM),* Aleksandra Obradovic, observes that state adertising has an impact on market conditions, including fair competition. "State companies are most frequently advertising on public broadcasting service RTCG and in the daily *Pobjeda* and that is leading to the situation in which small and private media are limited in this financing. The example of *CdM* is one where it is visible that the state companies never paid any money for advertising."[38]

Absence of precisely defined criteria concerning selection of media for advertising allows biased allocations that creates an unfair media environment. "The State of Montenegro is using state advertising to assist certain media," news agency *MINA* Editor-in-chief Milan Zugic, said. "At web portals which are not so popular there are advertisements of certain state agencies, directorates and other state institutions. That model of advertising is used to help certain pro-government media."[39]

Interviews with the editors of several major media outlets in Montenegro identified specific example of withholding of state advertising from the dailies *Dan* and *Vijesti* by the State Employment Office (SEO). Most advertisements by public institutions went to the until-recently state-owned daily *Pobjeda* and to the public service RTCG. The SEO, a public institution, does not place vacancy announcements in in the most widely read Montenegrin dailies. *Dan* editor Nikola Markovic confirmed this practice. "Our editorial board sent the management of the SEO an offer to publish their vacancy notices with us, given that we were one of the most widely read dailies in the country," he explained. "The SEO refused, although our offer was by far the cheapest and definitely lower than that of the state-owned daily *Pobjeda.*"[40] The experience of the web portal *Vijesti* is similar. "Portal *Vijesti* has been most seriously affected by denial of state advertising," said its editor-in-chief, Srdan Kosovic. "For three years, this portal has received no state advertising even though we are convincingly the most visited and most trusted in comparison with all other Internet portals."[41]

c) Project financing via public competitions

Project based financing is a recently introduced and so far limited mode of media financing. It is being used by the Ministry of Culture, the Commission for Allocation of Portion of Lottery Games, and the Agency for Electronic Media (for radio stations). There are already complaints about implementation of project finance, including bias in allocations.

d) Public procurement

The Law on Public Procurement prescribes the key principles for implementation of procedures regarding financing of media outlets and advertising. These are primarily the cost-effective and efficient use of public funds, including competition among the bidders, transparency, and equal conditions for bidders. There is widespread avoidance of open competition and tender procedures through misuse of direct agreements without public announcement, even though these are legally limited by purchase amount and percentage of direct agreements.[42] The State Audit Institution reported that advertising of some ministries, particularly the Ministry for Information Society and Telecommunications, is done through direct agreement. These purchases were not included in the Public Procurement Plan for 2013, which does not provide clear grounds for direct agreements for purchases.[43]

7. Conclusion

Montenegro's government should support openness and informed debate in making and implementing public policy decisions. Instead, information concerning matters of public interest is often withheld or distorted by government and by pliant media outlets favoured with official assistance. State funding and selective advertising are used to reward positive media coverage, and withheld to punish media outlets that question official policies or practices.

This soft censorship is quickening an already serious erosion of the independence of the many Montenegrin media outlets for which state funding is necessary for survival. It embeds self-censorship, and has further polarized media coverage and encouraged poor quality journalism that is of little service to public discussion and diminishes media credibility overall.

Montenegrin society faces an immense challenge in promoting a genuinely free media that practices responsible, fact-based reporting and rejects official manipulation. The public interest demands media that can remain independent and resilient in the face of inevitable political and commercial influences and pressures, and contribute to the building of accountable institutions.

Full implementation of laws and regulations that prevent state interference in media business operations and media outlets' reporting, while ensuring fair opportunities for all media outlets to obtain public funding and advertising, is sorely needed—and required to meet European Union standards. Transparency of ownership structures should be mandatory and possible conflicts of interest publicly aired. Strict adherence to the journalists' code of conduct and appropriate mechanisms of accountability for violations overseen by a credible self-regulating body should be the norm.

There is substantial public demand for impartial and accurate reporting in Montenegro. The Montenegro Government—and many of the country's media outlets—are doing their people a grave disservice by not promoting the free, independent and pluralistic media that can help consolidate the country's democratic development.

8. Endnotes

1. http://softcensorship.org/reports/global-review/
2. RSF - http://en.rsf.org/montenegro.html and CPJ https://cpj.org/europe/montenegro/
3. The Growing Threat of Soft Censorship Worldwide, Open Society Justice Initiative, December 2005 https://www.opensocietyfoundations.org/sites/default/files/threat_20051205.pdf
4. Please see: www.softcensorship.org
5. http://www.mminstitute.org/kodeks.html
6. http://www.ardcg.org/index.php?option=com_sobi2&catid=8&Itemid=84
7. http://www.osce.org/me/montenegro/84642
8. Please see this example: http://www.vijesti.me/vijesti/mile-sukovic-osudjen-na-kaznu-uslovnog-zatvora-171949
9. Interview with Darko Sukovic, editor-in-chief of radio *Antena M,* 12 July 2015.
10. http://index.rsf.org/#!/
11. https://freedomhouse.org/report/nations-transit/2015/montenegro
12. http://cgo-cce.org/en/programi/demokratija/mediji-i-demokratija/#.VfE-jGSeDGc
13. IREX Media Sustainability Index-2012 available at: http://www.irex.org/system/files/u105/EE_MSI_2012_Full.pdf, p. 107.
14. First multi-partisan elections were held on 1991, and Communist Party of Montenegro took part on these but in 1992 it change the name into Democratic Party of Socialists.
15. http://media.cgo-cce.org/2015/01/cgo-cce-equal-chances-for-all-media-in-Montenegro.pdf
16. http://media.cgo-cce.org/2013/03/Report-Media-and-Democracy-2012.pdf
17. http://www.state.gov/documents/organization/220523.pdf, http://www.state.gov/documents/organization/236770.pdf, https://freedomhouse.org/report/nations-transit/2013/montenegro
18. Intergovernmental Group of Experts on Competition Law and Policy, Fourteenth Session Geneva, 8-10 July 2014 Roundtable on: The Benefit of Competition Policy for Consumers, Contribution by European Commission, available at http://unctad.org/meetings/en/Contribution/CCPB_IGE2014_RTBenCom_EU_en.pdf
19. IREX Media Sustainability Index-2012 available at: http://www.irex.org/system/files/u105/EE_MSI_2012_Full.pdf
20. http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mn_rapport_2013.pdf
21. Interview with Nikola Markovic, editor-in-chief of the daily *Dan,* 15 July 2015.
22. Such information is available exclusively in the reports of the Centre for Civic Education (CCE), and only to the extent that the public institutions disclosed such information, as required in response to demands made under the Law on Free Access to information. Despite this legal obligation, some failed to respond. For more see http://cgo-cce.org/en/programi/demokratija/mediji-i-demokratija/#.VhQyR2Sqqko
23. The spike in state aid in 2013 was due to state repayment of guaranteed loan to the bankrupt KAP aluminum plant; please see: http://www.balkaninsight.com/en/article/montenegro-s-bankrupt-aluminium-plant-sold-to-a-local-company
24. Commission for the Control of State Aid, http://www.kkdp.gov.me/
25. The daily was privatized in October 2014, after 11 years in violation of the Law on Media, according to which it ought to have been privatized by November 2003.

26. After seven decades of being state newspaper, *Pobjeda* was sold for EUR 757,000 on 17 November 2014 through direct agreement, without tender and in bankrupcy, to the Media Nea company, controlled by Petros Statis, a Greek businessmen and partner of Government in several other bussinesses. Statis already owned one daily *(Daily Papers)* and one news portal *(CdM).* Statis holds honorary Montenegrin citizenship, based on the recommendation of the Prime Minister.
27. Interview with Mihailo Jovovic, editor-in-chief of daily *Vijesti,* 20 July 2015.
28. Interview with Mihailo Jovovic, editor-in-chief of daily *Vijesti,* 20 July 2015.
29. For 2015, the RTCG budget is EUR 14,787,500, from which EUR 12,600,000 comes directly from state budget as allocation prescribed by the Law on Public Broadcasting Services. Additionally, RTCG will receive EUR 100,000 from the state budget for digitalization and EUR 150,000 from Ministry of Culture for production of specific programmes. In 2014, the budget of RTCG was EUR 13,040,581, out of which it received directly from the state budget EUR 8.082,440, plus additional EUR 2,400,000, which is in total EUR 10,482,440 from state budget. Source: http://www.rtcg.me/rtcg/poslovanje.html
30. Interview with Aleksandra Obradovic, editor-in-chief of portal *Cafe del Montenegro,* 24 July 2015.
31. Interview with Milan Zugicem, editor-in-chief of news agency *MINA,* 27 July 2015.
32. http://media.cgo-cce.org/2013/09/cgo-izdavastvo-koliko-kojim-medijima-i-srodnim-agencijama-opstine-u-crnoj-gori-placaju-za-usluge-2011.pdf
33. http://media.cgo-cce.org/2013/09/cgo-izdavastvo-koliko-i-kome-poreski-obveznici-u-crnoj-goric-placaju-za-reklamiranje-2012.pdf. In 2012, the CCE was not compiling data for local authorities and this is why the figure is much lower than in 2011 and 2013.
34. http://media.cgo-cce.org/2014/12/cgo-cce-jednake-sanse-za-sve-medije-u-CG-2014.pdf
35. http://media.cgo-cce.org/2015/01/cgo-cce-equal-chances-for-all-media-in-Montenegro.pdf
36. Interview with Nikola Markovic, editor-in-chief of daily *Dan,* 15 July 2015.
37. http://media.cgo-cce.org/2015/10/cgo-cce-equal-chances-for-all-media-in-Montenegro.pdf
38. Interview with Aleksandra Obradovic, editor-in-chief of portal *Cafe del Montenegro,* 24 July 2015.
39. Interview with Milan Zugic, editor-in-chief of news agency *MINA,* 27 july 2015.
40. Interview with Nikola Markovic, editor-in-chief of daily *Dan,* 15 July 2015.
41. Interview with Srdan Kosovic, editor-in-chief of portal *Vijesti,* 20 July 2015.
42. http://media.cgo-cce.org/2015/10/cgo-cce-equal-chances-for-all-media-in-Montenegro.pdf
43. Annual Report on performed audits and activities of the State Audit Institution of Montenegro for the period October 2013- October 2014, October 2014, p. 64.

9. Bibliography

- *CIA World Factbook,* https://www.cia.gov/library/publications/the-world-factbook/geos/mj.html
- European Commission, Report on the Progress of Montenegro in 2013.
- European Commission, Report on the Progress of Montenegro in 2014.
- WAN-IFRA and CIMA, *Soft Censorship, Hard Impact: A global review,* 2014: http://softcensorship.org/reports/global-review/
- *The Growing Threat of Soft Censorship Worldwide,* Open Society Justice Initiative, December 2005 https://www.opensocietyfoundations.org/sites/default/files/threat_20051205.pdf
- Center for International Media Assistance, *How Governments around the Globe use Money to Manipulate Media,* 2013. http://cima.ned.org/publications/research-reports/soft-censorship-how-governments-around-globe-use-money-manipulate-medi
- Coronel, Sheila, "The Role of Media in Deepening Democracy", http://www.aiou.edu.pk/gmj/artical1%28AUT-08%29.asp
- Code of Conduct of Montenegrin Journalists http://www.mminstitute.org/kodeks.html
- IREX, "The Development of Sustainable Independent Media in Europe and Eurasia", http://www.irex.org/project/media-sustainability-index-msi-europe-eurasia
- IREX, Media Sustainability, Index-2012. http://www.irex.org/system/files/u105/EE_MSI_2012_Full.pdf
- Law on Media, "Official Gazette of the Republic of Montenegro", no. 51/2002, 20.9.2002.
- Law on Broadcasting Services, "Official Gazette of Montenegro", no. 79/2008, 23.12.2008.
- Law on Electronic Media, "Official Gazette of Montenegro", no. 46/10, 06.08.2010, amended by no. 40/11, 08.08.2011, no. 53/11, 11.11.2011.
- Law on the Control of State Aid, "Official Gazette of Montenegro", no. 74/09,13.11.2009, amended by no. 57/11, 30.11.2011.
- Intergovernmental Group of Experts on Competition Law and Policy, Fourteenth Session Geneva, 8-10 July 2014 Roundtable on: The Benefit of Competition Policy for Consumers, Contribution by European Commission, available at http://unctad.org/meetings/en/Contribution/CCPB_IGE2014_RTBenCom_EU_en.pdf
- Directive on amendments to the Directive on criteria, conditions and procedures for allocation of state aid in Montenegro. Uredba o izmjenama i dopuni Uredbe o bližim kriterijumima, uslovima i nacinima dodjele državne pomoci Crne Gore, "Official Gazette of Montenegro", no. 34/2011, 12.07. 2011.
- Commission for the Control of State Aid, Annual Report on allocation of state aid in Montenegro in 2013. http://www.kkdp.me/index.php?IDSP=217&jezik=lat
- OSCE-CEDEM, "Media, media freedoms and democracy", 2012. http://www.osce.org/me/montenegro/84642?download=true
- Reports of Ministry for Information Society and Telecommunications, 2014 and 2013.
- CCE Annual Report, "How much and whom are the taxpayers in Montenegro paying for advertisement", 2011 http://media.cgo-cce.org/2013/09/cgo-izdavastvo-koliko-i-kome-poreski-obveznici-u-crnoj-goric-placaju-za-reklamiranje-2011.pdf
- CCE Report. "How much, and to which media and other agencies are the Montenegrin municipalities paying for services", 2012 http://media.cgo-cce.org/2013/09/cgo-izdavastvo-koliko-kojim-medijima-i-srodnim-agencijama-opstine-u-crnoj-gori-placaju-za-usluge-2011.pdf
- CCE Annual Report "How much and whom are the taxpayers in Montenegro paying for advertisement", 2013 http://media.cgo-cce.org/2013/09/cgo-izdavastvo-koliko-i-kome-poreski-obveznici-u-crnoj-goric-placaju-za-reklamiranje-2012.pdf

- CCE Equal Chances for all Media in Montenegro, 2014 http://media.cgo-cce.org/2015/01/cgo-cce-equal-chances-for-all-media-in-Montenegro.pdf
- Action Plan for Chapter 23,"Justice and Fundamental Rights", September 2013.
- Interview with Darko Sukovic, editor-in-chief of radio *Antena M,* 12 July 2015.
- Interview with Nikola Markovic, editor-in-chief of daily *Dan,* 15 July 2015.
- Interview with Mihailo Jovovic, editor-in-chief of daily *Vijesti,* 20 July 2015.
- Interview with Srdan Kosovic, editor-in-chief of portal *Vijesti,* 20 July 2015.
- Interview with Aleksandra Obradovic, editor-in-chief of portal *Cafe del Montenegro,* 24 July 2015.
- Interview with Milan Zugic, editor-in-chief of news agency *MINA,* 27 July 2015.
- Commission for Control of State Aid http://www.kkdp.gov.me/
- Agency for Electronic Media http://www.ardcg.org/
- RTCG http://www.rtcg.me/rtcg/poslovanje.html
- Freedom House, Nations in Transit 2013 and 2015 Montenegro, https://freedomhouse.org/report/nations-transit/2013/montenegro and https://freedomhouse.org/report/nations-transit/2015/montenegro
- US State Department Human Rights Reports on Montenegro 2013 and 2014, http://www.state.gov/documents/organization/220523.pdf and http://www.state.gov/documents/organization/236770.pdf
- Reporters Sans Frontiers, Report on Montenegro http://en.rsf.org/montenegro.html
- Committee for the Protection of Journalists, Report on Montenegro https://cpj.org/europe/montenegro/

November 2015