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Media Structure in West Germany

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I. General remarks

Media policy has played a decisive role in West German politics in the eighties and has radically altered media structures with respect to broadcasting. However, media policy was highly controversial in earlier years as well if one considers the repeated attempts at opening the broadcasting system to private suppliers since the 1950s. Political parties, on the other hand, tried their best to strengthen their own influence.

Discussions concerning media policies with respect to the press were especially lively during the later 1960s and the 1970s and were predominantly concerned with the process of increasing concentration. In 1976 an attempt to check this concentration process resulted in establishing restrictions with regard to mergers. At the same time, demands to balance external concentration by extending the diversity of opinion within daily papers and magazines led to substantial discussions concerning the right of journalists to cooperate and to have a voice in decision-making.

It is the polarization of party politics with regard to media policies that is behind the heated controversies concerning media policies in the FRG (on party-political positions, cf. Hiegemann 1988: 97 ff.). Whereas since the 1950s fractions within the CDU/CSU have tried to throw open the broadcasting system to private suppliers, the Social Democrats have

consistently opposed the establishment of a "dual system" as long as this was possible. In attempting to privatize the broadcasting system the Conservatives have been supported by press publishers, partial interests from among the business community (telecommunications technology, electronics industry, media concerns, advertising). Apart from the Social Democrats it was especially the trade unions, the Green Party and certain ecclesiastical circles (protestant more than catholic) that opposed private broadcasting.

With regard to the press the situation was reversed, since initiatives concerning interventions emanated from the Social Democrats and the Liberal Party rather than from the Conservatives. Merger controls specifically designed for the press were a product of social democratic and liberal media policy, and by the 1970s the Social Democrats had taken over the demands of the associations of journalists with regard to strengthening the rights of journalists.

Realizing targets set by media policy but lacking broad consensus is extremely difficult in the FRG. At the federal level, political power to enforce fundamental interventions with regard to media policy is lacking. This is due to the explicit federal political structure of the FRG and the specific mode according to which responsibilities with respect to media are distributed among the federal state and the Länder. The transformation of the broadcasting systems, therefore, has been a complicated and long drawn-out process.

According to Germany's Basic Law, the 11 Länder have legislative power to the extent that the Federal Government does not have (exclusive, concurrent or special) authority (cf. Löffler 1983: 27ff.). With regard to legislation in broadcasting the German central state is limited to the postal system and telephone or transmission technology. Cultural aspects (programming), organization, technical issues related to radio studios are affairs relegated to the states, i.e., issues dealt with by the Länder parliaments and the Länder laws.

With regard to the press the German federal state has special authority to outline fundamental laws which are then elaborated by the Länder in the Landesgesetze. "Cultural sovereignty" of the Länder, however, holds here as well, but federal legislation has not made use of this authority, even though journalists have demanded this (cf. Mathy 1980: 84ff.). The only recourse made to the authority of the Bund was to prevent abuse of economic power by means of cartel law (so-called "Press Merger Control Law", cf. Grob 1987: 117 ff.).

Since during the 1980s the number of Länder dominated by the Conservatives was fairly balanced by those ruled by the Social Democrats, the attempt to ratify a state treaty regulating private broadcasting led to massive controversies. This was described as an "endurance test of federalism" (cf. Wilke 1986: 9). In 1987, however, an agreement was obtained (Rundfunkstaatsvertrag, cf. Hartstein et al. 1989).

II. Media Structure and Attempts at Regulation

1. The Press

According to the German constitution, freedom of the press is not only guaranteed as an individual right but also as an institution. With regard to individual rights, the law pertains to individuals, societies, groups and associations and provides for their right to articulate themselves by means of printed media, to produce and distribute ("active" or "material" freedom of the press) printed media and their right to do so without intervention ("defensive" or "formal" freedom of the press). Economic and technical developments resulting in the rise of powerful media trusts have induced legislation to provide for constitutional protection under Article 5 of the Basic Law (involving, apart from freedom of the press, six additional rights of freedom). This does not only concern individual firms and their members but also the press as such, i.e. the institution of the "free press".

It is important to remember these objective legal and institutional aspects of German legislation with regard to the press if one tries to understand the particular forms of privilege reserved for the press, or the instrument of merger control specifically designed for this sector and intended as a guarantee for the freedom of the press. The state does not just have the negative duty to refrain from interfering with subjects legally entitled to the freedom of the press, but also has the duty to protect and further the free press as an institution. According to the Basic Law, the press does not just enjoy protection from the state but also from non-governmental power groups like trusts, political parties, religious denominations or major customers of advertising. Nowadays, these groups often constitute a threat to the freedom of the press that is comparatively stronger than that of the state (so-called "Drittwirkung" of Article 5 GG).

The strong protection of the press in the constitution and in legislation in general is particularly motivated by the public duties accorded to the press. Since the formation of will in a democracy necessarily implies that the population exerts pressure on the government (and not vice versa), the press has a double function: on one hand it is an "engine" to drive public discussion, on the other it is to serve as an organ of public opinion (Bundesverfassungsgericht, quoted according to Rieker 1989: p. 172).

The so-called "Spiegel Verdict" of 1966 is a particularly acute demonstration of how the Bundesverfassungsgericht (Federal Constitutional Court) has defined the public function of the press. At the same time, the private economic character of the German press has been emphasized: "A free press, unregulated by public power and unencumbered by censorship is an essential characteristic of a liberal state; a free, regularly published political press in particular is indispensable for modern democracy. The citizen who wants to participate in political decisions, needs to be informed comprehensively but, at the same time, should be familiar with and capable of balancing opinions different from his own. The press maintains this permanent discussion ... In representative democracy the press, as a permanent organ of communication and control, mediates between the population and its representatives in parliament and government ... The public functions of the press are extremely important and cannot be accomplished by the organized public authorities. There must be opportunities for press enterprises to develop freely in the public realm. They operate according to private economic principles and within forms of organization developed by the private economy. They compete with each other spiritually as well as economically, and the public authorities, as a matter of principle, must not interfere with this process of competition" (quoted according to Löffler 1983: 62).

Indeed, there are a number of limitations of the freedom of the press (colluding against fundamental rights, under certain circumstances so-called general laws as well, e.g. stipulations of private law, law of competition, criminal law, laws protecting youth and honour, restrictions concerning sub-groups like civil servants, people under custody etc., cf. Löffler 1983: 165), but so far no particular public authority in charge of surveying the products of the press has been instituted. Although during the 1950s the government of K. Adenauer seriously considered setting up public control authorities to prevent the abuse of the freedom of the press, it was as a reaction to these plans that the "German Press Council" was formed in 1956 as an organ of voluntary self-control and modelled after the British Press Council.

The German Press Council involves 20 honorary members, one half of whom are nominated by the publishers' associations, while the other half are nominated by journalists for two years. It is constituted as a registered association in charge of the protection of the freedom of the press and of maintaining the reputation of the press. Qualified majorities are required for resolutions. Apart from defending the freedom of the press the German Press Council is primarily responsible for investigating offences of the press organs, publishers, or editors (about 150 per annum). Offences are dealt with by a separate committee that is staffed by 10 members of the Council nominated from among their number and presided over by a independent chairman who should preferably be a jurist. Well-founded offences are answered by written reprimand, whereas, in the case of severe deviations the Council reacts by reprimands published in the press. In 1973, the Press Council has issued a "Press Codex" specifying general codes of behaviour for journalism.

As early as 1965 the German Press Council passed a resolution warning of the dangers for the freedom of information and opinion imminent with concentration in the press sector. The discussion of media policy during the following decade was more or less dominated by this issue and ultimately led to passing legislation concerning merger controls specific to the press sector. In order to clarify the background to this piece of legislation it is necessary to look at this sector more closely. Our main emphasis in doing so will be some central structural characteristics and the process of concentration.

As mentioned before, the German press is organized on the basis of private law. There are no enterprises that have been established on the basis of public legislation. Small and medium-sized publishing houses are usually run on the basis of partnerships based on liability, dominated by limited partnership (Kommanditgesellschaft, KG) and a mixed form of limited liability combined with a limited partnership. The survey by Koch (1980: p.42) shows that 23 % of German publishing houses producing daily papers are organized as limited partnerships, 24 % operate as mixed companies of limited partnership and limited liability, and 44 % of the firms are run on the basis of limited liability. The joint stock company - i.e. the form which has been assumed by one of the best known companies of Germany, Springer Publishers - holds for only 2 %. Koch explains the reasons for choosing the three dominant legal forms of organization with reference to the minimum legal requirements for publicity (reports to the Registrar of

Trade are mandatory, but no publicitation of ownership or annual balance sheets is required).

Percentages of shares held by foreign capital in German enterprises is negligible (cf. Koch 1980: B 48), while, on the other hand, German publishing houses are active abroad. Recent expansionary drives have been oriented towards Austria, Hungary and Spain and presently concentrate on the German Democratic Republic. It is to be expected that foreign capital involved in the press sector as well is about to gain a firm footing with the restructuring of the East German market. In summer 1990 there were rumours that Murdoch was planning to cooperate with the German magazine trust Burda in order to establish an inter-regional yellow press magazine to compete against Springer's "Bild" (cf. *Der Spiegel*, Nr. 32 / 1990, p. 86 ff.).

Table 1 contains some important structural data which give information on concentration processes with regard to daily newspapers. In addition to the "publishing houses" we also took into account so-called "editions" and "journalistic units".

In Germany "dailies" are considered to be publications which a) appear at least twice a week and b) contain an up-to-date political section. "Journalistic units" are a sub-group of all daily newspapers which have the same political sections (generally pages 1 and 2, the "Zeitungsmantel"). "Editions" are the smallest unit. The special feature of an "edition" is the specific content in comparison to other dailies, which is often found in the local section. To be considered an "edition" there must be at least another title with a content that is the same. "Publishers" are all those who publish newspapers and as such determine content or orientation of at least the local section of their newspapers. Usually, the publisher can be identified by the masthead (cf. Wilke 1989: 268; Schütz 1989a: 748).

Line 1 of table 1 shows that there was a constant increase in the circulations of the daily newspapers up to the mid-eighties. In the past few years there has been a slight decrease in the circulations. This is mainly due to strong losses of by far the largest German paper, *Bild*, published by Springer Verlag (cf. Röper 1989a: 325 f.). Due to political changes in the German Democratic Republic, *Bild* managed to more than balance these losses "abroad". As early as in Summer 1990 more than 1.1 million copies of *Bild* were sold daily in the GDR, thus raising the total of the edition sold to 5.5 million (cf. *Der Spiegel*, Nr. 32 / 1990, p.87).

Table 1: Evolution of circulation and concentration processes in the German daily press 1954 - 1989 (Index 1954 = 100).

	1954	1964	1969	1976	1981	1985	1987	1989
Circulation (a 1954 = 13.4 mio.)	100	129	135	146	145	156	154	152
Editions (a 1954 = 1500)	100	100	94	82	83	85	84	90
Publishing houses (a 1954 = 624)	100	92	83	65	63	61	60	57
Journalistic units (a 1954 = 225)	100	81	66	54	55	56	54	53
One-Daily areas in %	15.2	21.4	29.8	45.3	46.2	47.9	(.)	48.8

Sources: Wilke (1989: 270); Schütz (1989a: 754).

The most accentuated processes of concentration took place in the fifties and sixties. Whereas the circulation of the German papers increased by a third, the number of political sections edited autonomously declined by a third (journalistic concentration). The concentration of publishers was slightly less. In the seventies and in the first half of the eighties the situation was stabilized. Starting with 1985 a new process of concentration can be observed. There was a 52% increase in circulation as compared to 1954. This increase is only carried by 57% of the publishers or 53% of the journalistic units of 1954. The concentration process of circulations, i.e., newspapers with the same political, but with different regional or local sections, was less. In 1954 approximately 1500 editions of 624 publishers were produced (2.4 per publisher). In 1989 this was 1344 of 385 publishers (3.8 per publisher). In the most recent past, a slight increase in the number of editions can be recognized.

The strong concentration trend has been especially detrimental for "journalistic units" with a circulation of less than 40,000 (cf. Noelle-Neumann 1973: 243). Concentration, which serves larger newspapers, is less problematic with regard to general political information and commentary since there is a wide range of other media (magazines, radio, TV). However, the restraints are especially felt in local news and commentary which are not covered by the other media.

The press statistics show a breakdown of West Germany into a total of 328 so-called "kreisfreie Städte" (larger cities) and "Landkreise" as regional sub-units. In 1989 in 48.8% of the cities and Kreise one single paper had a monopoly position. Whereas in 1954 only 8.5% of the total population lived in so-called "one newspaper areas", this figure amounted to 36% in 1989. Almost every third German is dependent on one single paper for information on local and regional developments.

The extent of the concentration of circulations becomes obvious if one considers that in 1989 more than half of the papers sold daily were produced by 3% of the newspaper publishers. The ten largest newspaper groups (circulations greater than 250,000) were able to increase their market shares from 14.2% in 1954 to 53.5% in 1989 (cf. Klatt 1987: 18; Röper 1989c: 328ff.). For the first three months of 1989 the three largest publishing groups in the field of daily papers and their shares in the total of circulations sold were: 1. Axel Springer Verlag (26.7%), 2. Verlagsgruppe Westdeutsche Allgemeine Zeitung (WAZ) (6%), 3. Verlagsgruppe Süddeutsche Zeitung (3.6%) (cf. Röper 1989a: 337).

On the level of "journalistic units" Bild is leading by far in spite of its losses. It was mainly this product of Springer that - because of its contents and high market share - was in the center of discussion in the sixties and early seventies (cf. Ossorio-Capella 1972: 100ff., 139ff.). During the 1980s the market share of Bild stood at between 21% (1988) and 27% (1982) of daily papers sold (cf. Medienjahrbuch 1989/90: 37).

The three next largest dailies are far behind Bild with respect to editions sold: Westdeutsche Allgemeine Zeitung (3.2%), Hannoversche Allgemeine Zeitung (2.4%) and Express (2.1%).

The most successful political weekly with the highest circulation is an independent newspaper: "Die Zeit". It has increased its circulation from 60,000 in 1960 to approximately 450,000 in 1988 (cf. Medienjahrbuch 1989/90: 36). All other weekly papers and magazines are dependent on subsidies from parties, churches or organizations.

In the magazine sector, the so-called "general interest magazines" - as opposed to professional journals - are the most significant ones for media policy. These magazines include illustrated journals, TV and radio programmes, weekly low-brow magazines, car and sports magazines, journals for women, fashion and lifestyle as well as political or economic journals. In 1988, these magazines obtained a circulation of 105.1 million, i.e. five times higher than the daily press.

Combinations involving publishers of dailies and magazines are pretty rare in West Germany since, as a rule, publishing houses either edit dailies or magazines. Combinations between publishers of magazines and books are more frequent. Apart from few exceptions (Springer publishers, the Holtzbrinck group) there are no broadly diversified press combines which control both daily press and magazine chains in a way which is familiar in the USA and Great Britain.

The weekly journal "Der Spiegel" is especially significant for the formation of political opinion (reach in 1988: 10.7% of the population). The illustrated journal *Stern* (15.6%) is important, too. Like "Die Zeit", they both show a marked tendency to social-liberal or social-democratic positions. Together with this weekly paper they form a counter-weight to the conservative papers dominating in the low-brow (Bild) and high brow (Frankfurter Allgemeine Zeitung) daily press.

The evolution of general interest journals shows two trends: on the one hand, a marked increase in circulation and on the other hand, a strong tendency towards diversification and specialization. Since 1960 circulation has increased here by 168%. The number of titles - fluctuating only between 28 and 257 in the fifties and sixties - declined in the first half of the seventies. Afterwards there was a slow increase and then a rapid one of 68% between 1980 and 1988. The average circulation of each title declined from 317,000 to 234,000 between 1980 and 1988. At the same time the total circulation increased by 20.5 million. These figures reflect a trend away from magazines oriented to the mass public with huge circulations toward special interest journals with smaller to medium circulation (cf. Diederichs 1973: 79; 1989: 314 ff.). As opposed to the market for daily papers, which has remained fairly stationary in the past few decades, there has been greater fluctuation in the sector of general interest magazines.

In contrast to the daily papers, there is no predominant magazine publisher. Four groups of publishers have considerable market shares. Since a number of magazines appear once or twice a month, we also have to take into account "weighted" circulations. As a consequence, all magazines not

appearing once a week are standardized to once a week (e.g., monthly = weekly x 0.25).

In 1989 approximately 46% of the non-weighted circulation and approximately 65% of the weighted circulation could be attributed to the four leading publishing groups. Bauer KG has a central position: weighted share: 32.4%, non-weighted: 19.5%. Following are Burda GmbH (16.8%, 10.4%), Springer AG (10.1%, 9.6%) and Gruner + Jahr AG & Co (6.3%, 6.6%). The concentration of circulation amongst the four leading publishing groups did, however, decline between 1974 and 1988, when one takes into account the non-weighted shares. The weighted shares indicate a generally stable situation (cf. Diederichs 1973: 80; 1989: 320).

The only publisher with considerable market shares in both the daily press (1989: 26.7%) and general interest magazines (1988: 10.4%, or 16.8% in weighted terms) is Springer Verlag. This, as well as the politically polarizing tendency of many of his titles, explains why Springer Verlag has always attracted special political attention (cf. e. g. the anti-Springer campaigns during the student movement era).

The "Sunday papers" have not been dealt with yet. These papers are especially significant in Germany since there are no dailies on Sunday. In spite of a recession since the sixties Springer Verlag (with *Bild am Sonntag* and *Welt am Sonntag*) is still leading this third sector of the press with a 69.8% share of the total circulation in 1989 (in 1967 83.6%, cf. Holzer 1988: 84; Röper 1989a: 325).

In the mid-seventies the social-liberal government took three measures against press concentration:

- a) Press statistics were given a legal framework so that reliable data could be compiled on economic trends concerning media (for the first time in 1975, latest edition: Statistisches Bundesamt 1988).
- b) Financial support, e. g., loans for smaller and medium-sized publishing operations (circulations up to 150,000 or turnover up to 150 million German marks) were given (for support of press by the state cf. Greb 1987: 121ff.).
- c) A press-specific merger control (1976) was the most important media-political initiative of Schmidt / Genscher's social-liberal government (cf. Chapter III).

Reacting to the reduced diversity in publishing and the tendency to local monopolies coming into being, demands have been voiced since the 1960s

that these tendencies to external concentration be balanced by increasing the diversity of opinion within the newspapers. This should be achieved by strengthening the journalists' rights of participation and co-determination in fashioning the paper's contents as well as its editorial policy - and in this context legal safeguards under the Federal Press Legislation Framework-Law were also considered.

The social-liberal government made the settlement of the so-called "internal press freedom" - aimed at strengthening the editorial staff's rights - its own cause and in 1974 presented a ministerial draft bill for a Press Legislation Framework-Law, but considerable legal obstacles stood in the way of realizing these conceptions. The last social-liberal government programme (1982) before the power reversal that brought the CDU/CSU and FDP to office (1982), no longer referred to the Press Legislation Framework-Law and other rules affecting internal press organization that had originally been advocated. In the 1980s the discussion of internal freedom of the press had lost some of its intensity and prominence in the public mind, although the demand for more say for the journalists has remained part of the programme of the trade union "IG Medien" (cf. IG Medien 1989: 65f.).

As early as the late 1970s media policy discussions increasingly began to concentrate on electronic media and on the multiple intermediary power of the media in the press and broadcasting field.

When the broadcasting system was opened to private suppliers during the 1980s the gradual formation of multi-media combines started in the FRG as well. The role that press combines played in this context, however, will be better understood once we have explicated the fundamental features of the German broadcasting system.

2. The Broadcasting System

Following the experience of "Pan-Germanic broadcasting", the central state broadcasting of the National Socialists, the Western Allies shaped the reconstruction of West German broadcasting after 1945. The allies agreed on the necessity of a decentralized, state-independent broadcasting system based on public legislation. Until 1955 it was controlled by the Allied Commission. In 1948/49 the legal conditions were created for the six broadcasting stations presently existing. All of these stations are still in

operation today, as they existed then or as the result of subsequent division. In the various occupation zones different models were applied. In the British zone, for instance, one common broadcaster was established for four Länder (NWDR, the predecessor of today's stations NDR and WDR). The Americans aimed at a more thorough-going decentralization by establishing different stations in the various Länder. There were also differences in the internal organization in the American and British zones, differences which are still visible. Broadcasting boards had the function of guaranteeing programme pluralism in the stations. In the British model delegates were named by the parliaments of the Länder, in the American model the "socially relevant groups" had the right to appoint delegates ("corporate principle") (cf. Kleinsteuber 1982: 20; Herres & Plog 1989: 26).

With the exception of "Deutsche Welle" and "Deutschlandfunk" which broadcast abroad, the autonomous, public-law stations are based on the law of the Länder or on agreements between numerous Länder (so-called state agreements which have the status of Land law). Regarding programme selection and management the Länder have self-administration competences. There is, however, legal control by the state and partial control by the audit offices of the Länder. The financing of the stations is based on licence fees (for the most part) as well as advertising revenue. The stations are not just profit-oriented and are thus not commercial enterprises.

In 1950 the corporation of the six public broadcasting stations existing in Germany at the time, "ARD", was founded. Since 1954 ARD has broadcast a federal TV programme (First German TV). Nowadays this public merger without body corporate comprises a total of nine Länder broadcasting stations: Westdeutscher Rundfunk (WDR), Südwestfunk (SWF), Bayerischer Rundfunk (BR), Norddeutscher Rundfunk (NDR), Süddeutscher Rundfunk (SDR), Saarländischer Rundfunk (SR), Hessischer Rundfunk (HR), Radio Bremen (RB), Sender Freies Berlin (SFB) (cf. ARD 1988: 173).

In 1961 the minister-presidents of the Länder signed a state agreement on the establishment of a TV station "Second German TV" (ZDF) which was to have its headquarters in Mainz. This central TV station to be carried by all of the Länder started broadcasting in 1963.

The Bayerischer Rundfunk was the first station to begin broadcasting a "third TV programme" in 1964. By 1969 the other stations followed with a third programme, either alone or together with other stations. The programmes focussed on education and culture. Because of the low reaches these minority programmes, however, were soon made more "popular" with

entertainment, sports, feature films as well as programmes with regional content, and became full schedules.

At the beginning of the seventies the broadcasting stations began to add a third programme to their two radio programmes. This programme was a so-called service programme with a mixture of popular music, informative short programmes, hourly news and traffic reports. This sort of programme contributed to a revival of radio listening in the seventies and eighties (cf. Haedecke 1989).

In the Basic Law of 1949, broadcasting - a general term designating both radio and TV - was only referred to in one sentence and then only cursorily. In Article 5 mention is only made of the freedom of news coverage in broadcasting. According to the wording of the constitution freedom of broadcasting has considerably less protection than the freedom of the press. The latter is not just guaranteed as a basic right of free news coverage (freedom of information) but also as freedom of opinion.

The "meager constitutional text" (Fuhr et al. 1989: 147) with regard to broadcasting had to be interpreted and concretized time and again in jurisprudence and jurisdiction. Evidence of this are the no less than five rulings of the Federal Constitutional Court (BVG) on radio and TV matters.

In the so-called first TV ruling of 1961 the BVG felt prompted to emphasize that institutional freedom was just as important for broadcasting as for the press, given the fact that the former was "a modern indispensable means of mass communication at par with the press and a factor of the formation of public opinion" (cf. Löffler 1983: 938).

In a normative sense, freedom of broadcasting implies: a) a claim to independence vis-a-vis the state and the political parties and b) freedom from the determining influence of private interest groups and corporations. Like the press, broadcasts are also free of censorship. Contrary to press freedom, which encompasses the whole material basis of a press corporation, broadcasting freedom is generally understood as programme freedom. According to the constitution, the field of technical transmission is a federal competence.

All broadcasting stations run on the basis of public legislation have a similar organizational structure.

The stations are directed by a manager ("Intendant") who is elected for a term of four to six years by a "broadcasting board" (at ZDF the "television board"). The manager carries full responsibility for the station (programme selection, station management).

The broadcasting board is the central internal pluralistic structural element. The broadcasting councils comprise 19 to 66 members depending on the station. They are supposed to safeguard general interests and to ensure that programme demands and programme principles are adhered to. Pluralistic composition is intended to prevent one-sided programme making. The broadcasting councils should represent all important social groups (e.g. parties, parliament, government, labour unions, universities, journalists and publishers, youth, athletes, etc.) but not in the sense of representing group interests.

There are different procedures for selecting the members in the various Länder (cf. Ricker 1987: 45ff). Essentially there are two different models. In the "state-political" or "parliamentary" model (e.g. ZDF) parliament and government powers dominate via the representatives elected by the parliaments. In the "pluralistic" or "corporate" model, where the relevant groups select their own representatives, they have less influence and competence (cf. Fuhr et al. 1989: 308; Herres & Plog 1989: 26).

The third body is the "administrative board", a small committee, which monitors management and exerts influence on staff-related decisions. Since 1985 there are also private broadcasters offering programmes financed exclusively by advertising revenues. The introduction of a "dual system" was preceded by extensive debates on media policy (cf. Section V).

Introducing private radio-broadcasting in Spring 1985 led to a rapid expansion. At the beginning of 1989 private producers broadcast national, regional and local programmes covering nearly twice the number of programme hours of the 37 radio programmes of ARD. There were about 100 private radio stations in 1989. Apart from purely commercial stations there emerged a series of local non-profit oriented programmes. With regard to time spent in listening to these private radio stations (totalling about three times the number of ARD-stations) they held an as yet rather modest market share of 16 % in 1989. The same judgement must be passed on the share of 15 % of the total population that was reached daily during working days. As private broadcasting had still not been introduced in all Federal States by 1989, however, one should expect further expansion in the field.

Private suppliers managed to get well-established in the TV sector as well. By the end of 1989 only 76.3 % of TV-time consumed by those older than 14 (real viewing time) was accounted for by programmes under public legislation (ARD 1 and 3 and ZDF). The two private suppliers - SAT 1 and RTL Plus - accounted for 10.7 % and 8.7 % respectively of viewing time.

The remaining 4 % are covered by foreign stations which may be received in border areas (especially from the GDR, Austria, and Switzerland) and satellite programmes (cf. Darschin & Frank 1990: 264).

Data from cable-TV households provide a more realistic image concerning the acceptance of private stations, since both RTL and SAT 1 may be received terrestrially only in certain areas. By the end of 1989 25 % of all TV-households had joined cable TV. SAT 1 is strongly based on programmes produced in the USA - actually their share in the programme is about three times as large as the proportion held by RTL Plus, or by public TV-stations; by 1990 this station held a share of 18.4 % and thus already ranked third behind ARD 1 (21.9 %) and ZDF (21.1 %). Whereas SAT 1 registered a decline of 3.2 %, RTL Plus has recently gained substantially and is on its way to link up with SAT 1 (1988: 10.7%, 1989:15.6%).

RTL in particular has successfully established itself in the market by developing a specific profile. RTL is the only station offering soft-porn while simultaneously considering target groups interested in politics and culture. RTL "leases" part of its broadcasting time to external suppliers, e.g. to DCTP, the company run by Alexander Kluge, who is an avantgarde film producer presenting cultural magazines. In addition to that, broadcasting time is leased to the magazines "Der Spiegel" as well as "Stern".

The other private suppliers have been facing severe problems in the attempt to capture an adequate share of the potential audience. Some of these programmes have already been abandoned (e.g. "musicbox" supplying video-clips and "Eureka" offering news). With regard to satellite programmes German cable-TV households mainly receive the German-speaking programmes "Tele 5" (share 1989: 1.9%) and "Pro 7" (2.6%). The English programme "Super Channel" and "TV 5", a French programme account for far less than 1 %. Most observers do not expect more than at most two or three commercial German-speaking full schedules to survive permanently. A German version of the feature programme "Eurosport" started in 1990. It is expected that one or two branch-programmes and one channel for pay-TV will survive.

Although most of the third programmes of ARD are distributed across several regions via cable-TV households they generally do not reach higher viewing shares (ARD 3's share in 1989: 9.1%) than those which they have in the totality of households. There is only a very small audience for the two cultural programmes instituted by State Treaties; these programmes - 3 SAT (ZDF, ORF, SRG and since 1990 DFF) and 1 Plus (ARD) - are transmitted via satellite and do not show advertising. Although both programmes

by publishers - is Leo Kirch, a film trader in 1989 holding the majority of the shares. Due to pressure by the media authorities of two Länder he reduced his shares to 50 % in favour of AV Euromedia. These are controlled by means of the "Programmgesellschaft für Kabel- und Satellitenrundfunk" (PKS), a subsidiary of the German Genossenschaftsbank, as well as by shares held by Springer. For several years now, the Kirch group has been involved in a permanent dispute with Springer, of which it holds 10 %. This struggle, which also involved influence on SAT 1 was characterized by both legal and journalistic clinches which have been detrimental to the image of the station.

Mr. Kirch holds 100% of "Teleclub GmbH" which is the only German pay-TV programme so far. Furthermore, Kirch's son holds a share of 49% of the station "Pro 7".

Foreign capital is taking its chance with respect to private TV as well. RTL Plus is a subsidiary of the "Compagnie Luxembourgeoise de Télédiffusion" (CLT, holding 46.1%) and Bertelsmann & Co.(39.8%), the biggest German media trust, which also holds 24.9 % of the "Spiegel" publishing house and 74.9 % of Gruner + Jahr, the editors of "Stern", the two magazines that are engaged with RTL plus (cf. Medienjahrbuch 1989/90:30. Additional shares are held by other trusts like WAZ (10 %), Berda (2%) delivering sex programmes, and the "Frankfurter Allgemeine Zeitung" (1 %) in charge of serious business.

"Tele 5" is a fourth private TV station offering a full programme mainly aimed at juvenile consumers. The most important shareholders are the German film entrepreneur Kloiber with 45 %, the Italian media entrepreneur Berlusconi (21%) and the Luxembourg-based CLT (24%). In Summer 1990 the Federal Cartel Authority accepted a 29% share participation by Springer publishers, who are planning to develop an alternative to being involved with SAT 1. Springer will take over most of Kloiber's shares (cf. FAZ, 11. 8. 1990, p. 12).

From data in Röper (1989b) it is obvious that publishing houses producing dailies have already become involved substantially in broadcasting, although as yet this is concentrated in radio broadcasting.

Press publishers are dominant in regional broadcasting covering the area of a federal state. Newspaper publishing houses held substantial shares or owned 7 out of 8 private broadcasting programmes covering federal states in 1989 and were the dominant force in sub-regional as well as local programmes. According to the survey conducted by Carsten (1989: 23 ff.)

maintain conventional standards of programme organization and have, by and large, avoided avantgarde experiments, they have not been able to reach more than a 3.5 % audience in 1989.

Private suppliers are successful in the commercial field as well. In 1989, ZDF showed a gross turnover of advertising of 857.5 million German marks. Income from advertising of the nine ARD stations amounted to 1.2 billion German marks, while private stations grossed about 1 billion German marks. During the first four months of 1990 private stations accumulated incomes from advertising in excess of 70 % over those of ARD stations (cf. Kelm 1990). Whereas for the ARD the ratio between revenue from fees and revenue from advertising was 80:20 from the 1970s to 1989, this ratio is expected to decline to 85:15 for 1990. Given these rapidly declining revenues from advertising due to competition by private stations the ARD has called for lowering restrictions with regard to advertising that have been imposed on public stations (cf. Maier 1990; Kelm 1990). Since the state treaty of 1987 both ARD and ZDF have been under the following restrictions: distinct separation of advertising from programming, restriction of advertising to 20 minutes per day and in blocks, no advertising on Sundays and on festival days, or after 8 p.m.. Although private stations which are financed exclusively by advertising revenue are also liable to separate advertising from programming and to provide it in blocks, there are no restrictions with respect to days or the time of the day. In addition to that, legislation grants a liberal allowance of advertising time up to 20 %.

The general discussion of media policy, however, is concerned with tendencies of intermediary concentration and the increasing merging of private suppliers.

The most important media trusts that dominate - at least in part - the market of magazines are substantially involved with the big national TV-suppliers. The only exception is Bauer, a trust that holds only a share in a local radio station in Hamburg.

Axel Springer's publishing house holds a 15 % share of SAT 1. The same share is being held by a subsidiary of the Holtzbrinck Group (AV Euromedia) which - very much like Springer - is deeply involved in newspapers, periodicals, radio and TV and is the fifth largest media trust in Germany ranked after Bertelsmann, Springer, Gruner + Jahr and Bauer (cf. Medienjahrbuch 1988/89: 30). Another 15 % is held by an association called "Aktuell Presse-Fernsehen" (APF), which is an association of 140 newspaper publishing houses producing the news for SAT 1. The central figure, however, of SAT 1 - originally scheduled to be a station managed exclusively

there were only 17 out of the 90 in the local and sub-regional programme category that had remained independent of newspaper publishing houses.

In 1989 altogether 23 % of the 358 newspaper publishing houses were involved in local private radio programmes. A further 26 % revealed that they were interested in running radio programmes on their own or jointly with others. With regard to concentration it is a problem that among those 82 publishing houses actively involved in radio programming no less than 78 % are monopolists or hold market positions similar to a monopoly within the area they supply with newspapers. Among those publishers that have declared themselves interested in an involvement with radio programmes 67 % are monopolists or quasi-monopolists controlling market-shares of 80 % or more (cf. Röper 1989:548).

In those southern German federal states that have licenced private radio programmes for highly localized areas only (Bavaria, Baden-Württemberg) there are already a number of double monopolies, i.e. monopolies of newspaper publishers operating the only local radio programme. Bavaria has attempted to alleviate this problem by "splitting frequencies", i.e. admitting additional suppliers on the same frequency on the basis of time sharing.

Double monopolies like these are not prohibited by the cartel authorities since licencing of private radio programmes is not subject to merger control. Publishing houses, therefore, are in no way prevented from expanding via internal growth or amalgamation with existing radio stations.

III Regionalization and Centralization

The decentralized structure of the FRG is particularly discernible with regard to media.

Among German dailies with the highest circulation, only Bild is a supra-regional paper. The others are regional or local papers. All of the important supra-regional dailies have a relatively low circulation. The bourgeois-conservative press such as the Frankfurter Allgemeine Zeitung (FAZ) and "Die Welt" had a circulation of 357,000 (= 1.7% of the total circulation) and 220,000 (= 1.1%), respectively in 1988. The left-alternative "Tageszeitung (taz), founded in 1979, is the only successful supra-regional new paper of the seventies and eighties. Its circulation was limited to about 60,000.

Erdmann & Fritsch (1990: 43ff.) have carried out an international comparison for subscription papers in seven member countries of the EC, together with Austria, Switzerland, Norway and Sweden. With a share of 91.6 % of regional and local papers in total editions the FRG shows the highest degree of regionalization among these countries. (France being second, and Switzerland, third. Average of all countries is 76.1 %). With regard to the share of regions served by more than one paper, the FRG - despite of substantial intra-national criticism - is number one among EC member countries yet still behind Sweden and Norway.

The lack of a metropolitan capital is reflected in the fact that the German press does not have some centre like London, Madrid, Stockholm, or Vienna. Centres for subscription papers are Essen, Düsseldorf, Frankfurt, and Munich. The centre of the mass magazine market (Spiegel, Stern, Die Zeit) and the yellow press (including Bild) is Hamburg which, for this reason, may be regarded as the most important press city. It is to be expected, however, that Berlin will play a more prominent role as the capital of a unified Germany.

Regionalization is particularly pronounced with regard to radio broadcasting. With the exception of "Deutschlandfunk" and "Deutsche Welle" - stations, that primarily broadcast abroad - there are no programmes directed at an audience that is super-regional in the strict sense of the word. ARD stations broadcast programmes for individual provinces (Länder) and for those groups of Länder grouped according to the state treaties. Among these schedules - usually three or four - there is one with particular emphasis on regional issues.

Decentralization of private suppliers has been strongly emphasized, especially in the southern parts of Germany. The new Landesmediengesetze" of the eighties stipulated widely diverging regulations especially with regard to radio broadcasting. Bavaria, e. g. has fostered strong regional differentiation and has subdivided its area into eighteen regions in which local agencies organize broadcasting and TV-programming. Altogether there were 98 frequencies allotted to 18 locations, so Bavaria has been enjoying a wide range of local and sub-regional broadcasting stations. The same is true for Baden-Württemberg.

The situation is very different in Northern Germany where only one or two programmes covering the whole area have been licenced in both Schleswig--Holstein and Lower Saxony. De-centralization is also expressed in such a way that different Länder have different solutions. Rheinland-Pfalz

particularly the case with regard to broadcasting, but there are interventions with regard to the free inter-play of forces in the press sector as well. These interventions take the positive form of privileges for the press, as well as negative re-inforcements, that is, measures against mergers. In both cases the object is to maintain the freedom of the press (cf. section II). Thus, the freedom of the press is considered as an object to be protected and furthered.

Among the privileges admitted are, among others self-control of the press and extensive rights in procuring information, the right of members of the press to refuse to testify (protection of editorial secrecy), short-term limitations on press campaigns, protection of the orientation of the press (freedom of press companies from shop stewards demanding a voice in decision-making), freedom from postal duties and provision of price reductions for postal deliveries (cf. Löffler 1983: 117ff.).

In 1976, on the other hand, the SPD-FDP government prevented the freedom of the press from being interpreted in a virtually un-regulated sense, and on the basis of pure individual rights, which by relentless competition might result in the formation of a few large publishing combines. The so-called "Pressefusions-Kontrollgesetz" (law concerning the control of press mergers) have limited the individual right to freedom of press companies in favour of the "institution of the free press" in the following way:

The general merger control applies basically to all press operations. The criterion however, is an annual turnover amounting to 500 million German marks (cf. Möschel 1978: 182ff.) The controls limited to such big mergers do not apply to press operations. For newspaper and magazine companies the criterion was thus reduced to mergers which together share a yearly turnover of 25 million German marks. This corresponds to circulations of about 60 thousand. Since the amendment of the "Act against restraints on competition" such mergers need the approval of the Federal Cartel agency. This Agency can take action against mergers in such instances when it is to be expected that the market will be dominated by this (cf. Medienbericht 1985: 105f.; Groß 1987: 121 ff.). The "act" is thus considerably more restrictive than the press-specific merger control in the United Kingdom which served as a model. This only applies when a circulation of 500,000 is reached through mergers (cf. Monopolies and Mergers Bill, art. 8).

However, there remains the possibility of "failing company mergers", meaning the merging of companies, one of which is in financial difficulties (cf. Möschel 1978: 182ff.). Advocates of interventions against press

again has commissioned only one frequency for the whole area, which is shared out among four different suppliers (Radio 4).

The television sector chose a supra-regional orientation which is more strongly articulated. The ARD, a union of country-wide stations, broadcast its first programme on a national as well as a regional scale. The third programmes of the ARD are conceived for a regional range and, since the re-orientation in the 1970's, have had strong local and regional reference points in terms of content.

The ZDF - though based on a state treaty of the federal countries - broadcasts a nation-wide programme since it is conceived as a central station.

After many newspaper publishing houses had enthused initially about local TV programmes, they became plagued with economic sobriety shortly afterwards. There were only four newspaper publishing companies left in 1989 that were still active in local and regional TV programming (7 in 1987). Local and sub-regional private TV stations are strongly concentrated within certain regions, i.e. Berlin, Munich, and three further Bavarian cities (cf. Medienjahrbuch 1989/90: 62). With regard to television, local stations could barely establish themselves compared to nation-wide suppliers (SAT 1, RTL plus, Tele 5, Pro 7).

On the regional level there are only few publishing houses left that share in the so-called "regional windows" of the big private stations like SAT 1 and RTL Plus. Private regional programmes like these exist only in the three federal states served by NDR and Rheinland-Pfalz. A newspaper from Saarland has already abandoned regional programming that had been transmitted via RTL Plus, whereas local and regional programmes for Nordrhein-Westphalen and Bavaria are being planned, among others, by publishing houses. These are scheduled to be transmitted via RTL Plus and SAT 1 by 1990 or later.

IV State vs. Market

The FRG today is a country with one of the strongest market orientations. Since the take-over of power by the Conservative-Liberal Coalition and with the capitulation of the GDR the value of "freedom" is particularly emphasized in opposition to a restrictive "state intervention". However, this does not mean at all that media are not regulated. This is

- a) Publishing houses that acquire licences for radio programmes should be regarded as mergers with regard to the regulation of competition.
- b) Publishing houses in a monopoly or quasi-monopoly position should not be allowed to acquire licences for radio programmes covering those areas that they serve as publishers (cf. IG Medien 1989:65).

In opposition to that, the cartel authorities have argued that monopolies or similar market structures may be permitted on the following grounds: Private radio stations are not in a dominant position vis-a-vis public suppliers that are in a far superior competitive position. Instead, they need to be supported so that they can better compete with public broadcasting stations. Whereas opponents of concentration focus on micro-level processes, the cartel authorities have in mind relationships on the macro level (cf. Röper 1989b: 536).

The function of the state in maintaining a guarantee of the freedom of broadcasting is even more strongly anchored than that concerning the freedom of the press. Due to various attacks on the monopoly of broadcasting regulated by public law, which had been instituted by the allied forces, the federal constitutional court has been coerced to produce no less than five verdicts. The court proved to be quite sceptical that the pluralism of opinion prevalent in the press organized on the basis of private law was going to emerge in broadcasting without state intervention (cf. Ricker 1989:179). In addition to that, the five verdicts that have been issued since 1961 provided fundamental statements concerning the problem of the liberalization of the broadcasting system.

According to the decisions taken by BVG broadcasting must be "non-state". At the same time it is accepted that state representatives are present in the supervisory committees. The number of government and parliament members in the broadcasting councils is, however, not just important in political terms but also in legal ones. The Oberverwaltungsgericht (high administration court) of Lüneburg ruled in 1979 that members of the Land parliament as well as those of the Land government were to be considered "state representatives". State freedom is guaranteed, according to the court's ruling, when the state representatives form a minority in the broadcasting sector. In literature on this subject, however, a maximum percentage of 1/3 is often demanded (cf. Fuhr et al. 1989: 809).

Regarding programme selection and management the Länder have self-administration competences. There is, however, legal control by the state and partial control by the audit offices of the Länder.

concentration also see a decisive loophole in the absence of regulation limiting the enterprises' internal growth, since concentrations often occur without any mergers involved when competitors fall by the wayside and the mighty enter the gaps opening up in the market.

True, press-specific merger control - objected to or considered as going too far by neo-liberals - failed to prevent further press concentration, which may also come about by the mechanism of successful newspapers' internal growth, by way of failing company mergers and by diverse crowding-out competition strategies (e.g. free copies, lavish give-away extras for subscribers) (cf. Meyn 1987:51). But, as the data presented in table 1 show (Section II), concentration can be slowed down. Whereas the liberal position - claiming that abstention from any kind of state interventionist media policies is the best kind of media policy, also has adherents in the Federal Republic, there seems to be fairly broad agreement that the instrument of press merger control has stood the test of practical application (cf. Klatt 1987: 19).

However, there are substantial gaps in the legislation pertaining to the regulation of cartels, which have been more thoroughly recognized recently. Legally, there has been no possibility of preventing publishing houses from entering the sphere of broadcasting, and companies dominating certain markets are not prohibited in principle by cartel law. It is only when companies abuse their market power that the cartel authorities are entitled to intervene. A publishing house acquiring a broadcasting licence neither violates the law nor commits abuse of power. Since an acquisition of this kind does not constitute a merger subject to prohibition, it is impossible to refer to those clauses of the regulation of cartels that stipulate measures against mergers of two or more publishing houses (Löffler 1983:962).

Especially in those southern German federal states that have licensed private radio programmes for highly localized areas only (Bavaria, Baden-Württemberg) there are already a number of double monopolies, i.e. monopolies of newspaper publishers operating the only local radio station. They are not prohibited by the cartel authorities since the licensing of private radio stations is not subject to merger control. Publishing houses, therefore, are in no way prevented from expanding via internal growth or amalgamation with existing radio stations.

In view of this problem the trade union IG Medien calls for legal provisions against a rising monopoly of opinion:

broadcasting, sketched in the first television verdict of 1961 (large capital involvement, shortage of frequencies) has altered due to recent technological developments.

Free unregulated access to broadcasting was denied in principle. Because of the importance of broadcasting to the general public it must not be left to the vagaries of free competition (the "free play of forces"); rather, it requires detailed regulation by state legislation to make sure "that broadcasting is not surrendered to one group or some specific social groups" (cf. Löffler 1983: 945).

For the first time in this verdict the BVG departed from the model of a broadcasting code based exclusively on internal pluralism. It decided that in case the state legislature should decide on an externally pluralistic broadcasting system, an internally pluralistic organization of the private promoter might be waived (cf. Ricker 1989: 178-185).

In 1986 the Federal Constitutional Court, maintained in its fourth verdict that the special status of broadcasting did not permit its subjection to market forces, although the legal requirements for admitting private suppliers were relaxed substantially.

They argued as follows: In order to finance themselves, private suppliers are mainly dependent on advertising and, therefore, on popular, mass-oriented programmes. They are thus not in the position to completely realise their objective, i.e. to comprehensively inform the public. Admission of private producers to broadcasting - which in principle, is perfectly legitimate - is not to be restricted unfairly. Therefore, the standards pertaining to broadcasting companies subject to public regulation with regard to breadth of coverage as well as to assuring equilibrated diversity must not be applied indiscriminately.

Unrestrained functioning of public broadcasting is thus made the cornerstone permitting increasingly relaxed admittance of private broadcasting; public broadcasting is supposed to safeguard the so-called "basic provisioning" of the population and to maintain the traditional functions of broadcasting, thus permitting the structural weaknesses of private suppliers, whose "basic standards" are interpreted more generously.

In defining the concept of moderate basic standards the Federal Constitutional Court merely required private broadcasters to reserve opportunities for expression across the whole range of opinions and stipulated that the one-sided and highly biased influence of particular institutions - in other words, a monopoly of opinion - was to be excluded.

The first verdict on broadcasting maintained that broadcasting has two basic "public tasks": a) guaranteeing "diversity of opinion" and b) a cultural function. Public law broadcasting stations are thus also referred to as "cultural institutions", broadcasting itself also being seen as "cultural nourishment". The tasks of public stations are thus not to be seen primarily from economic, but also from a cultural point of view (cf. Fuhr et al. 1988: 282 ff.).

The first TV verdict is important mainly because in it, for the first time, the Court came to grips with the controversial problem of the public utility "TV-Monopoly". The BVG held it to be constitutional "in the present conditions" of a special situation for broadcasting. The special situation was seen to consist in the large financial requirements involved in operating such transmitters, and primarily due to the technical shortage of frequencies (cf. Löffler 1983: 944).

But in this verdict the BVG also dealt with the basic problem of organizing pluralism, confirming the model of the later so-called "internal pluralism". Internal pluralism in the field of broadcasting means that in the interest of the freedom of opinion the total programme of the broadcasting corporation concerned must be varied and balanced. Variety and balance of the programmes are to be safeguarded by participation of "socially relevant forces" in the supervisory bodies of the broadcasting companies (cf. Klaus 1987: 29).

Conversely, in a model of external pluralism, plurality is secured not on the level of the overall schedules of separate organizations, but at the level of the various programmes of the individual originators and promoters. In this conception, as in the press sector, diversity of opinion is safeguarded to the extent that the sum of the programmes and/or contents of various individual promoters' presentations reflect the total spectrum of opinions. In this, the bias of individual programmes or presenters is no problem. Private presenters are naturally much more at ease in such an extra-pluralistic model. Thus the verdict did not in principle exclude private promoters from the field of broadcasting, but raised for them the hard-to-take hurdle of internal pluralism.

The third verdict of 1981 embodied fundamental directives preparing changes in the media scene in the 1980s. The judges of the constitutional court were of the opinion that private broadcasting is not inadmissible. But Art. 5 GG, they opined, requires of private broadcasts to have statutory regulations making provision to vouchsafe the freedom of broadcasting. The need for such regulations, they hold, applies because the special situation of

This basic standard needed to be defined by federal legislation and had to be secured by means of material and organizational rules of conduct.

This verdict turned out to be a compromise among various political forces, some of which represented claims for widespread deregulation, while others intended to maintain the traditional state of affairs involving monopolies of institutions under public regulation.

The dual system of broadcasting based upon public regulation was thus invested with the explicit objective of guaranteeing "basic provisioning".

The concept of "basic provisioning" was discussed widely and controversially immediately after having been introduced into media law and was subjected to further elaboration and grinding refinement in a fifth verdict of the Federal Constitutional Court in 1986. The Court ruled that the concept of "basic provisioning" must not be identified with compensatory minimum provisioning; nor should it be allowed to imply some kind of division of labour assigning "basic provisions" to public broadcasting agencies, while reserving everything else to private suppliers. The legislator is not permitted to concede the exclusive right to organize certain programmes or services to private suppliers.

"Basic provisioning" is supposed to imply the "essential functions of broadcasting with regard to both the democratic order and cultural life in the Federal Republic of Germany". It is meant to cover all aspects of programming and thus includes the formation of both public opinion and political aspirations, entertainment and information, as well as culture and education. It is this objective that provides the rationale for funding public broadcasting agencies by means of duties and fees (cf. Hartstein et al. 1982: 134 ff.; Fuhr et al. 1989: 294 ff.).

V. Party Political Influence

In the FRG it is rare to see parties or party functionaries being involved in a direct economic sense in publishing companies. (cf. Kock 1980: B 67) Within the sector of daily papers party organs, which formerly held a very strong position, have practically disappeared. It is just among the weeklies that one can discover their remains, among which "Bayernkurier" of the Bavarian Christian Social Union (CSU) and "Vorwärts" of the Social Democrats feature most prominently.

The influence of political parties upon the press is, rather, the indirect influence that they are able to exercise on the press via the political preferences of publishers and editors. The CDU-CSU has stronger support among the daily press - not just Springer press which is distributed super-regionally (Bild, Die Welt), or the more exacting Frankfurter Allgemeine Zeitung, but even the majority of regional and local papers. Press organs that are politically influential and generally tend to support positions of the Social Democratic Party are weeklies like "Der Spiegel", the illustrated weekly "Stern" or "Die Zeit" which is published in Hamburg as well. In sum, the German press is characterized by the following: in the daily papers, a bourgeois-conservative element predominates, whereas in the general interest journals with political sections there is a stronger left-liberal or social welfare state orientation.

The exercise of influence or attempts to influence by political parties are more prominent in the case of broadcasting.

It is the so-called "TV adventure" of Conrad Adenauer, the CDU Chancellor, that has to be mentioned first. His attempt to claim the broadcasting competencies, so far attributed solely to the Länder, for the Federation by invoking Art. 73 GG, led to several Länder lodging appeals with the Federal Constitutional Court. The party in opposition, the SPD, stated its objection to any form of letting television get into the hands of private interests after the pattern of the British ITV system. But with his centralistic aims Adenauer had also brought upon himself the opposition of some of the Länder governed by the CDU.

One has to call the role of the parties in the struggle for the establishment of private broadcasting, and also the way in which supervisory bodies as well as top positions in public broadcasting systems were instituted. Since the introduction of private broadcasting was the most strongly contested incident in the history of the media in the Federal Republic of Germany, we will take a closer look at this point at these conflicts and the role that political parties played in it.

The conflict triggered by Adenauer ultimately ended up at the Federal Constitutional Court. In its "first TV-judgement" in 1961 the Federal Constitutional Court (BVG) declared the "Deutschland/Funk'GmbH", which had been installed in 1960 in blatant disregard of the Länder, to be unconstitutional. The court made it clear that the Federal competence according to Art 73 GG applies solely to the technical field but that the regulation of matters of organization and programme are the concern of the

The commission emphasized the necessity of a "need-oriented expansion" of a federal broad-band distribution network and indicated that radio facilities would be required for eliminating the shortages of frequencies. On the other hand, though, it saw no dire need for a greater number of television programmes. In 1976 it thus only recommended monitored trials with cable technology. This was not carried out until 8 years later with the so-called "cable pilot projects" in four major German cities (Berlin, Munich, Dortmund, Ludwigshafen). In these projects, the implications of cable TV were to be analyzed scientifically (cf. Hasebring 1988). Private broadcasters were also supposed to carry these programmes. For the social-liberal federal government the planned pilot projects were open in terms of results (cf. Hartstein et al. 1989: 75). The projects which entailed considerable research expenditure, however, had no influence on whether cable TV or the introduction of private broadcasters were to be accepted or not. When the cable projects began the German Bundespost had already cabled 3 million households.

By 1988, when most of the results of accompanying studies were still unpublished, there were 12 million cabled households (45% of all households). The expanded "dual" broadcasting system had become a reality with a number of private broadcasters and 74% of the households able to receive more than the three local TV-programmes (cf. Darschin & Frank, 1988: 168).

The SPD-FDP government always had reservations about the expansion of the telecommunications infrastructure through wide-band cable. It tried not to prejudice decisions on media policy with technical measures such as large-scale cabling. It pointed to the necessity of further research on the effects of the media - which could also be seen as a dilatory strategy.

In contrast to the social-liberal government, which took no steps to promote the introduction of private broadcasting, the CDU-CSU/FDP federal government elected in 1982 was immediately very active in the cause of private broadcasters. The leading media politician of the CDU party, Schwarz-Schilling, was appointed minister of the Bundespost. Although neither the organization nor the programme-provision of broadcasting was part of his jurisdiction, he was definitely in charge of the technical infrastructure. He did everything in his power to eliminate the shortage of frequencies, promoting large-scale broad-band cabling and leasing telecommunications satellites for broadcasting purposes. The strategy was to make a fait accompli: "the pilot cable projects paved the way for private broadcasters receiving licences. This process was hardly reversible even

Länder. In reaction to this judgement, the Länder promptly proceeded to install the ZDF in the same year (cf. Hartstein et al. 1989: 61ff).

The next setting of the battle for establishing private broadcasting under direct participation of political parties was the Saarland. This time the attack on public TV was launched not only by the CDU, but by an interested union of delegates of the three most prominent parties. This attempt at achieving party political control of public broadcasting ended in the supreme court, as well.

In 1967 a group of members of the Saarland-parliament belonging to the CDU, SPD and FDP brought in a draft bill listing such rules. Behind this was an agreement between sections within these three parties, concerning participation in a private television company (FRAG - 58% of its capital) which should also serve to improve the parties' finances (cf. Hartstein et al. 1989:65). This attempt to achieve control by the political parties failed in the highest court.

A third attempt at party-political action is the "Bavarian broadcasting war", which has gone down in the history of German broadcasting.

The CSU party, the majority party under Strauss in the Bavarian Landtag, passed a bill in 1972, which provided for an increase in the number of its members of the Bavarian broadcasting board from 41 to 59. Not less than 2/3 of the 18 new members were supposed to be Landtag representatives. Two-thirds of the seats were supposed to be taken by members of the CSU party (cf. Löffler 1989: 936).

A wave of protest arose against this attempt. With a vote of more than 10% of those eligible to vote, a popular referendum was initiated which provided a limitation of government, senate and Landtag representatives in the broadcasting board to 1/3 of its members.

The introduction of private broadcasting was particularly embattled with regard to party policies. It is well worth looking at this more closely.

With the introduction of new forms of broadcasting in the United States and Japan towards the end of the sixties (e.g. cable TV, satellite transmission, pay TV), the SPD / FDP federal government, in 1974, created a commission (KAK) which was to examine social needs, as well as the technical, legal and financial issues related to the application of new communication technologies. Important in terms of media policy were the results on cable and satellite TV since these technologies were to help eliminate the shortage of frequencies. In its first ruling on television, the BVG had cited this shortage of frequencies as the rationale of the monopoly on public law broadcasting.

when the trials failed. Cabling fulfilled a similar function in making it impossible to decide against the introduction of cable TV" (Kepplinger 1989: 92; cf. also Groß 1987: 140).

Crucial motives behind the politics advancing private broadcasting were the economic interests of enterprises (especially of telecommunications technology and the electronics industry as well as publishers and media corporations), the intention of the CDU-CSU/FDP federal government to revive the domestic economy and to make Germany lead internationally in the field of telecommunications and electronics (cf. Medienbericht 1985: 35 ff.) and last but not least there was a party interest in an expansion of media diversity.

Many members of the CDU-CSU party were convinced that the public broadcasting system was to their disadvantage and to the advantage of the social-liberal coalition in the federal elections. In contrast to the traditional view, i.e., that mass media consolidate existing views but do not change them (cf. accounts in Klapper 1960; Schenk 1987; Katz 1988), media experts and consultants of these parties assumed that TV had a considerable effect in changing opinion. The CDU secretary general at the time held the view that before the parliamentary elections in 1976 and in 1980, which the union parties lost, 3/4 of the journalists working in public media had sought a continuation of the social-liberal coalition. A considerable number of the voters who had been undecided until shortly before the elections had made their decision on the basis of the "media climate" created by television. He based this view on a theory developed by the communication researcher Noelle-Neumann (1977, 1980), the so-called theory of the "spiral of silence" which had triggered controversies among social scientists. The election campaign manager of Franz-Josef Strauss also made the presentation of his candidate by public television responsible for the defeat of the CDU-CSU in the parliamentary election of 1980 (cf. Kaase 1989: 99ff.; Herres & Pitz 1989: 29). It was also said that certain camera positions had a negative effect on Kohl (cf. Kepplinger & Donsbach 1983; Kepplinger 1983; Merten 1983).

Thus, there were several reasons, why CDU prime ministers became active both before and during the period when the CDU minister of posts started to promote cable TV policies in order to open the broadcasting system to private suppliers. Both the third verdict on TV of the federal constitutional court in 1981 - which maintained that private broadcasting is permissible with certain precautions - and the success of the CDU-CSU at the federal level encouraged most prime ministers of the CDU or countries that were governed by CDU-CSU coalitions (First Baden-Württemberg

Niedersachsen, Schleswig-Holstein and Rheinland-Pfalz) to promote new conceptions of media law, which contained regulations concerning the creation of private broadcasting.

In 1984 and 1985 new media laws were passed in a number of Länder with clauses legalizing private broadcasts. Once again the SPD tried to counter private broadcasting. In 1984 the SPD-Bundestag fraction submitted a voidance petition against the act passed in Lower Saxony. One of the objections was that the law did not contain satisfactory conditions concerning the content and organization for guaranteeing broadcast diversity.

Though objections of the SPD were successful in this case, the federal constitutional court again harnessed this position for more substantial legal development. In 1986 a verdict of the federal constitutional court ruled that the legal requirements for admitting private suppliers were to be relaxed substantially. Action by the SPD, therefore, provided the occasion to create the legal frame-work for the success of private TV which, today, may clearly be recognized in terms of both reach and revenues from advertising gained. Even before this verdict, on the occasion of the party conference in Essen, the media policies of the SPD took a decisive turn when private TV was accepted after it had become clear that processes induced by the CDU-CSU could not longer be blocked. Nevertheless, with regard to private broadcasting, the SPD may be distinguished from the CDU by its considerably stronger insistence on local pluralism compared to the existing state of affairs. The SPD meanwhile clearly recognized that private broadcasting - with programming primarily oriented towards the more popular end of the market - is no less popular among its own clientele than among the constituency of the CDU-CSU.

Whether certain parties are more favourably treated in the programmes of private suppliers, has been addressed in some content analyses. The results of these studies are particularly interesting with regard to the national struggle over private TV. These studies suggest, that the introduction of private broadcasting resulted in certain advantages for those who had supported it politically (Faul, 1989; Schatz et al. 1989). On the other hand Kepplinger and Staab (1990) tried to prove that the coalition parties (CDU/CSU and FDP) are less favourably treated in the news programmes and political magazines of RTL Plus than the opposition parties (the SPD and the Greens). Merten (1990), however, questioned the results of this study by media analysts who are close to the CDU.

It is no secret either that considerations of party policies play substantial, indeed, very often a decisive role when it comes to staffing top positions (Intendanten, directors, directors of main departments and departments, chief editors, legal officers, etc.) in public institutions. Some recent examples indicative of this problem are the denomination of the Intendant of Sender Freies Berlin and Westdeutschen Rundfunkein (cf. Der Spiegel, Nr. 23, 1983, Nr. 5, 1985), of the programme director at Bayrischen Rundfunk (Der Spiegel, Nr. 19, 1987), and of the directors of "Tagesschau" as well as "Tagesthemem", the most important news programmes of the ARD (Der Spiegel, Nr. 6, 1988). How could it be different, if the institution which elects the "Intendant" and substantially influences other decisions with regard to personnel on the level of top management - the broadcasting, as well as the TV council - is dominated both directly and indirectly, by party policy? There are a number of quite impressive illustrations that prove that individuals successfully placed in top positions by virtue of patronage very often comply with the political expectations invested in their administrative behaviour (decisions concerning hiring and firing within the programming section, influencing or even banning well known "notorious" programmes, sensible behaviour in interviews and discussions with top politicians, etc.).

With regard to the struggle over top positions the CDU-CSU have recently been far more successful than the SPD: of 12 "Intendanten" (DF, ARD stations, Deutsche Welle, Deutschlandfunk) no less than 9 are staffed by CDU-CSU members or persons close to these parties, while only two of them are SPD members. It is only the Intendant of the largest ARD station (Nowotny of the WDR) who is considered neutral with regard to party politics (cf. Menzel, 1987: 120 ff.). Menzel could also discern a bias of CDU-CSU directors and chief editors, although this is not as strongly pronounced as with regard to "Intendanten".

VI Language and Ethnic Minorities

By the mid-eighties roughly 4.5 million foreigners were living in the FRG. Turks (1.4 million) are the largest group by far, followed by Yugoslav (about 600,000), Italians (about 550,000) Greeks (about 300,000), Austrians (roughly 175,000), Spaniards (150,000), and Dutch (about 100,000). The other groups of foreigners generally comprise less than 100,000 (cf.

Finally, we have to address an important aspect of the political influence of parties on broadcasting. This is the way in which control commissions (broadcasting councils, TV councils) as well as leading positions ("Intendanten") in public institutions are staffed. Since both parties and governments belong to the "socially relevant groups" which constitute these councils, party politicians are immediately represented on the boards of the broadcasting councils which elect "Intendanten". The share of party politicians is larger in those institutions which are of more recent origin historically. These are institutions which have been created under the formative influence of German politicians according to the "state political" model, while the Americans as well as the British had at first introduced the "pluralistic model".

Apart from directly nominating parts of these control commissions political parties exert an indirect influence via the formation of so-called "amicable circles". Donsbach and Mathes (1989: 351) have described the usual proceedings as follows: "parties have formed so-called 'amicable circles', within which members of the broadcasting councils prepare for official meetings and voting. It is in these 'amicable circles' that members of the various commissions meet those who are close to political parties without necessarily belonging to them. In case of conflicts concerning programming the broadcasting councils generally find solutions according to the party political interests of these 'amicable circles'. In this way, political parties exert an influence on the control of broadcasting which is far beyond the number of their representatives in the control commissions".

Considering these facts it is quite understandable that the problem of how to define a "socially relevant" group is of particular political significance. Recently the SPD and the Greens who came to power in Lower Saxony in 1990 have substantially advanced public awareness of this problem. Negotiations concerning the coalition of these two parties have included a modification of the state treaty concerning the NDR (North German broadcasting). Among other things, it is planned to withdraw certain rights from house - and property owners, refugees from former German territories, the league of the German Federal Armed Forces and the association of independent professions to participate in the broadcasting council and, instead, consider representatives of consumers, the "Mietbund" (Tenants' Association) the "Verband der Ausländer" (Association of Foreigners), the "Verband der Schriftsteller," (Writers Association), Greenpeace and Environmental groups, that is, groups, which are close to both the SPD and the Greens.

Statistisches Jahrbuch 1987 for the FRG, Stuttgart and Mainz: Kohlhammer, p. 68).

With regard to broadcasting, though, it is not these groups who are best provided but American, British, and French citizens who live in the FRG, since they are supplied by various private satellite programmes (TV 5, Super Channel) as well as by stations of the allied forces stationed in the FRG (e.g. BFBS) in their own language and, in part, with news, culture, and entertainment from their home countries. People from Switzerland and Austria, too, - provided they live in cable TV-households - are in a privileged position compared to foreigners from Southern or Eastern Europe (such as Turks, Yugoslavians, Italians, or Poles), since they may receive programmes from their home TV stations SRG and ORF via the trans-national satellite programme 3 Sat.

For those groups of foreigners (Turks, Italians, Greeks, Spaniards, Yugoslavians) that are dominant in the FRG with regard to numbers there are daily radio programmes - the NDR e.g., broadcasts between 19h00 and 22h20 - which may be received in most regions. Essentially, these programmes consist of news (with a heavy emphasis on international politics, domestic politics of the country concerned, and events concerning foreigners in the FRG), sports reports, entertainment (pop-and folk music of the country concerned) and cultural programmes.

Every Saturday morning the ZDF has a ninety-minute programme ("Neighbours in Europe") for foreigners, the concept of which is to moderate the introduction to particular contributions to the programme in German, while the contributions themselves are presented in the respective national languages (partly with German sub-titles, partly with German translations). These contributions are mostly programmes produced by the TV stations of the respective countries, though, occasionally, one finds German contributions concerning issues that affect foreigners (e.g. hostility towards foreigners, legal problems concerning divorce, problems concerning asylum, evening school programmes, etc.). In addition this programme has two news segments (one comprehensive, on international politics, and a shorter one involving issues of German national politics affecting foreigners), sports, and a cultural magazine. In contrast to the radio programmes already mentioned this TV programme is not only oriented to the "classical migratory countries", although they are dominant, but also reports on, e.g., Eastern Europe or Scandinavia. Altogether, these programmes are rather concerned with "Völkerverbindung" (establishing ties among peoples) as well with informing German TV consumers about

other European countries than with supporting respective national and cultural identities of foreigners living in Germany.

Little is known concerning reports about foreigners in print media. Merzen (1985), in a content analysis of German papers, came to the conclusion that - apart from athletes, artists, and official visitors, who were predominantly presented in a positive light - negative information about foreigners dominates, with criminal acts in which foreigners are involved directly or indirectly playing a major role. This is particularly valid for regional papers, while themes involving foreigners are only marginally important for supra-regional papers. In addition, it can be demonstrated that reports about foreigners are more negative the further away they seem from Germany with respect to geography, culture, and anthropology. On a scale of values, e.g., reports are more negative concerning people from Yugoslavia than from Austria, more negative about Turks than about Yugoslavs, more negative about Africans than about Turks, etc. Finally, one has to mention that reports about refugees are more negative than those about migrant workers.

VI Conclusion

Within the last five years the German media scene has changed drastically. Considering the unification of both states one may expect a very dynamic process of development within the next couple of years. In many respects, the former GDR is an open market for which both West German and foreign media combines will compete intensively.

Notwithstanding all of the compromises, the bourgeois parties were more successful in achieving their goals in media policy than the Social Democrats and the "Green Party" (cf. Klatt 1987: 35). The traditional division of labour, characterized by private ownership and external pluralism within the press sector and public-legal ownership and internal pluralism within the broadcasting sector, has shifted asymmetrically. The broadcasting sector was opened to private ownership and external pluralism. Attempts to introduce internal pluralism and public-legal ownership into the press sector have, however, not been successful. The lasting changes reflect the renaissance of neo-liberal ideas and the stronger political influence of conservative and liberal powers in Germany in the eighties. To a large extent the new private system of broadcasting is based on national capital. Apart from RTL Plus,

concentration of media power to produce opinions within a few trusts is creating new problems with regard to policies.

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international capital is involved in stations that are of minor importance and does not play any significant role in broadcasting and in the press system.

One of the most obvious effects of introducing commercial TV is that there is a substantial increase in the consumption of entertainment programmes. Both cultural, educational and information-programmes have suffered considerable damage because of competition by private programmes that essentially have remained caterers of entertainment (cf. Schatz et al. 1989; Faul 1989; Darschin and Frank 1989). The Federal Republic of Germany is beginning to show the same symptoms that have already been diagnosed in other countries with a high proportion of cable TV households and commercial stations generously supplying entertainment: people are beginning to participate in a "slalom of entertainment" (cf. Kaase 1989:108). If Kaase is correct we are increasingly faced with the diffusion of a relationship to politics both simplified and therefore "de-politicized".

These and similar apprehensions have been the staple diet of the discussion about media policies that has been grumbling away in the Federal Republic for the last ten years. It is not surprising, therefore, that Adorno's and Horkheimer's theory of the "culture industry" has been resuscitated, although it had originally been developed from experience with the broadcasting system in the United States of the 1940's (Adorno and Horkheimer, 1947). This theory lived through its second spring in the 1980's after it had already seen a first period of renaissance during the early years of the student movement in the 1960s. Besides that, however, there were also more recent strains of cultural criticism immediately concerned with media that enjoyed considerable recognition in the Federal Republic.

Media policies in Germany have put certain restrictions upon publishing houses by means of controlling mergers. On the other hand, by opening up the realm of radio broadcasting they have been granted a wide range of opportunities for expansion. As a result of this, the scenery in Germany with regard to media has become much more varied. Seen from the perspective of theoreticians of the so-called "culture industry" it has been enriched by a whole spectrum of mass-oriented, regressive and, in part, quite vulgar products. From the liberal perspective the de-regulation of public monopolies has been the timely response to controlled force-feeding as the only available route to happiness perceived by the state. Whichever perspective one is tempted to adopt, it is hardly tenable to ignore the salient fact that both the tendency to establish double monopolies and the

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Outlines of an Analysis of the Italian Television System

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I General Remarks

The recognized peculiarity in the Italian television system is its present absence of any legal regulation: no law restricts the use of frequencies, the amount of advertising within the schedule, the content of programmes with regard to the protection of the younger audience, the merging and concentration of the firms in the field, the quotas of national and European production, etc. Nevertheless, it is a television system which is in many respects quite developed, with at the same time some anomalous features.

Since August 1984, when Berlusconi bought *Retequattro* from Mondadori, his competition with RAI benefited by having the same number of television channels: three for RAI and three for Berlusconi (*Canal 5, Rete4, Italia 1*).

Today, the situation is the following: the state television (RAI) with its three channels, the largest private group (Berlusconi's *Fininvest*), some specialized national networks, such as *Odeon TV, Italia 7*, then a wide range of local commercial stations (approximately 800).

This situation follows a sequence of distinct but related processes: the reform of public television (1975) and the decisions about radio and television expressed by our Constitutional Court.

Innovation, Vienna (1990), pp. 361-368