

Media Reform in Argentina: Can it go too far?



*Can cross-ownership limits guarantee media plurality? LSE's **Lucia Cohen** argues that in Argentina, the state has been accused of using a similar approach to silence government opposition.*

The Leveson Report, contrary to the expectations of **some observers**, has not made detailed recommendations for new ownership limits on media companies in the UK. Other countries are taking a more radical approach, to the extent that some governments may be accused of using ownership limits to silence criticism.

In Argentina discussions on limits to media ownership have led to controversies about the dangers of government control. There are, for instance, on-going debates about whether to introduce new limits on the number of licenses that can be owned in press, broadcasting, cable, and telecommunications. In 2009, Argentina passed two rules concerning media access and plurality: It incorporated a digital standard for terrestrial digital TV (TDT) and established the Audiovisual Communication Services Law (Ley de Servicios Audiovisuales, or SCA).


The implementation of the 2009 laws has been problematic: the biggest media group and leading critic of the government, **Clarín**, claimed that two of its articles (45 and 161) were unconstitutional, and were designed to choke off oppositional voices.

Measures that may limit the scope and reach of media outlets opposed to the current administration, such as Clarín, are controversial in that the state may be seen to be introducing new limits as a way of controlling the media. Indeed, this has resulted in the on-going conflict between the ruling party and the opposition concerning the real objectives of the SCA. Opposition politicians have argued that the rule was created to silence state opponents, Clarín in particular. It does not help that the country's president Cristina Fernández de Kirchner and her supporters have targeted the major media firm in their statements, rather than making reference to other monopolies that would supposedly be affected by the new regulation.

The conflict has already reached the Supreme Court. The Argentinian president has been pressuring judges to declare the constitutionality of the articles through **appeals** and public declarations. The Court has recently extended the temporary measure that freezes the effects of the new laws on Clarín, while the Civil and Commercial Federal Camera decided that it will analyze the media law's case during the judicial recess this month.

The SCA law reserved a portion of the spectrum for non-profit organizations, created obligations for private media, created an independent regulatory authority (Autoridad Federal de Servicios de Comunicación Audiovisual or AFSCA), and imposed limits to concentration and to broadcasting cross-ownership. Although this measure seems to try to create a more plural media environment by breaking monopolies, it is also thought to be aimed at weakening Clarín.

Last February, the Open Society Foundations' Mapping Digital Media Project published a **report on Argentinian** media, citing its new media law as a step towards media democratization. Arguably, the report underestimates the risk posed by such state action to freedom of expression.

The newly created regulator, AFSCA, has been tasked with allocating radio-electric spectrum licenses "except for cities with more than 500,000 inhabitants where licenses are granted by the PEN" (the Argentinian Executive Power, in Spanish Poder Ejecutivo Nacional). As Open Society does explain, "the democratizing intentions of the law encounter a significant limit" because of the fact that government –instead of an independent and hopefully neutral body- would **have** the power to support the media outlets that they prefer. 

The law allots 33% of spectrum for non-profit organizations, and 50% for the private sector, although “spaces are granted directly and without any public competition”. Moreover, private entities need state bodies’ consent to carry their signals. [La Nación](#) has quoted the chairman of the Committee on Freedom of the Press and Information of the [Inter American Press Association](#), Claudio Paolillo, as saying that the SCA’s problem lies in not in its content but its unequal applicability.

So whilst the new year will see a renewal of calls for new media ownership restrictions as well as more [media policy transparency](#) in the UK, the Argentine case shows that reforms must be proportionate and justified if they are to avoid accusations that they are politically partisan.

January 11th, 2013 | [Media Plurality and Ownership](#) | [6 Comments](#)

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