



---

Azerbaijan's broadcast media assessment

# Media in a Chokehold

Institute for Reporters' Freedom and Safety

January 2013





# Acronyms

ANS TV	Azerbaijan News Service TV
ATV	Azad Azərbaycan TV (Free Azerbaijan Television)
AzTV	Azerbaijani Television
BBC	British Broadcasting Corporation
DDT	Digital Terrestrial Television
EBU	European Broadcasting Union
EPRA	European Platform of Regulatory Authorities
IFEX	International Freedom of Expression Exchange
IRFS	Institute for Reporters' Freedom and Safety
ITR	Ictimai Radio (Public Radio)
ITV	Ictimai Television (Public Television)
NGO	Non-governmental organization
NTRC	National Television and Radio Council
OSCE	Organization for Security and Cooperation in Europe
PSB	Public Service Broadcasting
RFE/RL	Radio Free Europe/Radio Liberty
RTPA	Radio and Television Production Association
UGC	User Generated Content

# Contents

Acknowledgments .....	5
Recommendations.....	7
Executive Summary .....	17
Introduction .....	20
Chapter One: Broadcasting and Media Policy .....	23
Chapter Two: The National TV and Radio Council .....	28
Chapter Three: Public Service Broadcasting .....	32
Conclusion .....	37

# Acknowledgments

This report is a publication of the Institute for Reporters' Freedom and Safety (IRFS), an independent, non-profit organization dedicated to promoting freedom of expression in Azerbaijan.

The report is part of a larger initiative, implemented by IRFS and supported by the OSCE Office in Baku--*Change in the air: Advancing the debate on broadcast pluralism and diversity in Azerbaijan*.

The overall objective of the initiative is to promote democratic reforms in TV and Radio broadcasting in Azerbaijan. The immediate objectives are: (i) to identify opportunities for potential interventions on broadcast media development for the short and long-term perspective; and (ii) to foster public discourse at an international and local level on shortcomings and reforms made in the area of TV and Radio broadcasting in Azerbaijan.

This report has been prepared on the basis of desk-based research, interviews, focus group discussions and most importantly, through media monitoring. Over four months (September–December 2012), IRFS monitored six major TV channels, including AzTV, Ictimai Televiziya (ITV), ANS, Lider TV, ATV and Space TV, Ictimai Radio (IR) and the website of the state-run Azertag information agency. The monitoring assessed risks for media pluralism and identified threats to such pluralism based on a set of indicators, covering pertinent legal, economic and socio-cultural considerations.

IRFS's monitoring team employed quantitative and qualitative methodological tools according to international standards for media monitoring. IRFS used the methodology that has been developed by the Slovak media monitoring organization, MEMO 98, which has carried out similar monitoring activities in some 38 countries in the last 15 years. The methodology has been proven and tested also in Azerbaijan (during the 2008 presidential and the 2010 parliamentary elections). Given its comprehensive content-oriented approach, it is specially designed to provide in-depth feedback on pluralism and diversity in media reporting, including coverage of chosen subjects/themes. As such, the outcome of the monitoring is not a set of empty and superficial data, but a detailed analysis and evaluation of the current level of political diversity in media reporting, including concrete comparisons and analysis.

The IRFS research team has been lead by the organization's chairman and media expert Emin Huseynov. The research team has worked in close consultations with Rasto Kuzel, Director of Memo 98 who helped in compiling and editing the report. The project has also been supported by Gulnara Akhundova of International Media Support, who compiled and edited this report.

*The report was compiled thanks to the generous support from the OSCE Office in Baku. The opinions expressed in this report are those of the authors and do not necessarily reflect the views of the donors. IRFS is solely responsible for the analysis and recommendations contained herein.*

# Recommendations

As this report shows, freedom of expression in general and pluralism in the national broadcast media in particular are under threat in Azerbaijan. We call on the authorities to take action to address this situation in accordance with the country's international obligations. To that end, IRFS developed a set of recommendations outlining steps needed to ensure pluralism and diversity of broadcast media in Azerbaijan. We call on the Azerbaijani authorities to undertake the following specific steps:

## General

Media freedom should be strictly upheld. The independence of the media should be respected, as objective reporting and access to information is essential for people to make informed decisions and participate in society. State authorities should always refrain from interfering in activities of the media and journalists as it undermines their independence.

Media outlets should adopt a common binding self-regulatory mechanism such as a code of ethics, accessible to the public, to enable viewers to compare and scrutinise the output of different broadcasters and the behaviour and performance of journalists.

## State-funded broadcasting

Consideration should be given to transforming AzTV and other state channels into independent public service media.

Authorities should consider amendments to the current legislation, and implement the existing legislation as required, to strengthen the mandate of *İctimai television and radio* (ITV and IR) so it reflects public interests and is based on independence, editorial freedom and non-interference by the authorities.

In addition, the Law on Public TV and Radio Broadcasting should be amended to provide more detailed description of the structure and responsibilities of İctimai's managing and controlling bodies. Furthermore, the amendment should also provide for an accountability mechanism in case of gross violations committed by individual members of these bodies, including financial discipline and legal responsibility. In addition, it would be advisable to create a

system of a regular public feedback concerning the public broadcasters' activities.

Ictimai's Broadcasting Council, which ensures and enforces that the programming of the public broadcaster is in compliance with its public service remit, should carry out its duties in accordance with the legislation. The appointment procedures for the Director General and for members of the Broadcasting Council should be independent, transparent and should provide for a more diverse membership of the Council, including representatives of civil society and experienced professionals in the media field.

### Programming

Media reporting should be balanced and factual. Media should be able to criticize and investigate activities or inaction by the authorities and other official bodies whose work is financed from public money. They should not face any pressure or retaliation when investigating corruption or wrongdoings.

Broadcasters should put more emphasis on reporting reality as it is, not to refrain from showing people's emotions, positive or critical/negative viewpoints. Neutrality should not be seen as an ultimate goal as news then becomes superficial and sterile. At the same time, media should present all sides of the story with a comparable time and manner of presentation to avoid any preference or bias.

Broadcasters should enhance their reporting by providing the relevant context, background information, using experts and alternative viewpoints in the framework of its news items. By offering such views, broadcasters can help their viewers to better understand what the given information means for them.

Stories should be presented from various angles, presenting different viewpoints, including experts and civil society representatives. Journalists in general should be more probing in their approach when asking questions, not to let politicians come up with weak responses, excuses or general answers. They should see the public interest behind each story and confront responses with reality.

News programs should reflect what is happening in the country, from either a social or political perspective. As such, if there is something important happening, it should be always shown. However, it is always crucial to provide background, context and to try to confront actors (especially those holding public offices) with such contextual questions.



When covering any controversial issue, especially of a political nature, it is very important to present all sides involved, including when a side refuses to comment. In such a scenario, the refusal should be presented so that the public is not misled. In addition, it is important to provide impartial background information if the issue is long-term and complicated. It is usually not satisfactory to limit coverage of such controversial topics by purely presenting opinions of the sides involved without proper contextual information.

#### Coverage of state officials

It is clear that the state administration is the main policymaker and coverage of its activities is necessary to keep the public informed, including official events, meetings and implementation of policies. However, events can be genuine and relevant (such as national celebrations, anniversaries, the signature of international treaties, etc.), genuine but marginal (such as the opening of public buildings), and pseudo-events (occasions created or managed by the government with the aim of generating positive media coverage). While incumbents generally receive more media exposure than challengers, the media should cover the activities of authorities in a balanced and critical fashion by focusing on results, successes and failures. Media should provide a platform for independent and critical opinions, offering the public informed views on the authorities' performance in office.<sup>1</sup>

#### Transparency

The enduring monopolization of the media market by powerful groups close to the establishment has deprived Azerbaijani audiences of an effective diversity of sources of information, and has thereby weakened the guarantees of pluralism. Such undue concentration of media ownership should be prevented through appropriate measures. Instruments should be applied to improve competition, to motivate old players to loosen information monopolies, and to allow new players to enter the media scene.

1. See the *OSCE/ODIHR Handbook on Media Monitoring for Election Observation Missions* at <http://www.osce.org/odihr/92057?download=true>.

Consideration could be given to amending existing provisions regulating transparency of media ownership, with a view to ensuring public access to detailed information regarding the involvement of individuals and of legal entities in the ownership structures of the media as well as on the nature and extent of their respective involvement. Transparency of media ownership is not only important for the authorities, so that they can make informed decisions regarding media regulations, but also for the public to make its own analysis of the information, ideas and opinions expressed by the media.<sup>2</sup>

#### Public consultations on media policy

The government should ensure broad public discussions in connection with media policy and media legislation.

Government representatives, the parliament and the National Television and Radio Council (NTRC) should involve civil society representatives, organizations working in the area of media freedom, NGOs, trade unions, independent experts and other civil counterparts in the improvement of media policy and media legislation.

The government should ensure on-going dialogue with civil society on the following issues:

- independence of the NTRC and broadcasters;
- switchover to digital broadcasting and other technological improvements for broadcasting;
- ensuring that broadcasters serve the public interest;
- evaluating methods, rules and results of the monitoring of broadcasters' adherence to legislation and license commitments;
- transforming AzTV into an independent public service broadcaster;
- improving the independence and professionalism of public service media.

#### Trainings & Media literacy

Government and broadcasters should participate in raising public awareness about media policy and media development in accordance with public interest.

Consideration should be given to supporting educational programs, including in the regions, so that schools of journalism become sources and purveyors of journalistic standards and values both for students and for professionals throughout their careers.

Consideration could be given to creating a mechanism of financial support for journalism schools in the absence of traditional forms of donation, such as charity, private or corporate donations.

*2. See, inter alia, the Council of Europe Recommendation CM (2007)2 of the Committee of Ministers to member states on media pluralism and diversity of media content*

<https://wcd.coe.int/ViewDoc.jsp?id=1089699>

Consideration could be given to creating platforms (in Baku and the regions) for discussion, training, studies and self-reflection of the media in order to enhance the current level of journalistic profession. This would help journalists, managers and students to increase their professional capacity and would also improve the current level of media literacy. Access to various educational resources, such as books, databases, methodology, research magazines, as well as a chance to exchange experience through international media networks and journalistic associations, would also help in achieving these efforts. It is also important to strengthen the legal awareness of journalists, including the use of legal protection mechanisms.

The government, media owners, universities, and civil society organizations should provide all possible support for professional training; and should take steps to improve the training and professionalism of media employees by developing special training institutions.

Media outlets should encourage the internal education of their journalists, based on teaching principles of independence, integrity, and maturity. They should motivate and reward those journalists who are open to education and self-education.

Developing civil society in Azerbaijani broadcasting', through a series of seminars targeting the new generation of Azerbaijani broadcasters, should foster a broader degree of representation of civic issues within the Azerbaijani news media. Journalists should be taught the skills necessary to target audiences with broader news and current affairs coverage aimed at empowering the Azerbaijani people with detailed knowledge of their civil rights and responsibilities.

#### Digitalization

The government should encourage and support the introduction and increased penetration of new information and communication technologies, such as the Internet and digital broadcasting. This can be achieved by adopting supportive legislation and setting up and financing educational projects that would convince businesses to invest in these technologies, and help citizens to understand and use these technologies.

The government should adopt and unveil a national policy regarding digitalization and a plan to switch to digital broadcasting. To prevent the creation of a monopoly in the digital television market, the government should put forth a legal initiative that will prohibit the concentration of a few big groups (digital multiplex operators, TV stations, program packets and program providers) which would dominate digital broadcasting. Taking into consideration the effect of the switch-over to digital media, the government should encourage an enlightenment campaign and debates in connection with access to digital broadcasting.

Provisions should be added that relate to the forthcoming digitalization of the media in order to safeguard the audience of prominent national and regional media during the switch to digital broadcast.

#### Local broadcasters and community (municipal) broadcasting

The government should include a development strategy for local broadcasters and community broadcasts in its national media policy. These broadcasters should have fair access to frequency, and conditions should be created for these broadcasters to benefit from the government's support.

#### Media regulator

Authorities should ensure (both in legislation and in practice) the political and operational independence of NTRC, in line with the Council of Europe's recommendations.<sup>3</sup>

The authorities should take steps to fill gaps in the legislation that relate to television and radio regulation. This should include amendments to legislation regulating the work of NTRC to make it more independent, licensing of broadcasting, and new broadcasting technologies and services should be adjusted to existing demands and advanced standards.

International and inter-governmental organizations should continue their assistance to the government and the NTRC to support reforms. They should demand that the government and the NTRC do these together with NGOs on media freedom and journalist unions. International and inter-governmental organizations should continue their collaboration with the government and the NTRC in the correct and effective implementation of current laws regarding TV and radio broadcasting.

The state authorities should minimise political influence on media outlets, with a special focus on public media, by strengthening and professionalizing regulatory bodies. The members of regulatory bodies should be media professionals with a good knowledge of the media environment. Thought should be given to appointing members with a full-time status.

If the NTRC is to be respected as an independent and credible media regulator, consideration should be given to improving the current system of appointing their members. NTRC's membership should be diverse, including experts with media background and experience, selected *inter alia* from among civil society organizations dealing with the freedom of expression. Before their appointment, all candidates should have a public hearing in the parliament.

3. See the Council of Europe's recommendation on the independence and functions of regulatory authorities for broadcasting sector at [http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec%282000%29023&expmem\\_EN.asp](http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec%282000%29023&expmem_EN.asp).

The authorities should move to enact and ensure proper implementation of detailed conflict of interest rules for appointment to, and continued membership of, broadcasting regulatory bodies.

NTRC should monitor *ex officio* broadcasters' compliance with legislation and contractual license conditions and in case of their non-compliance, appropriate sanctions should be applied.

NTRC should oversee adherence of commercial broadcaster's to their public service duties envisaged in the law "On TV and Radio Broadcasting" and should encourage them to air programs serving the public interest. NTRC should monitor broadcasters' programs.

NTRC should review and enhance its media monitoring methodology which is currently not sufficiently comprehensive to properly identify imbalances in news and current affairs programs. The methodology, questions, and terms of the monitoring conducted by NTRC should be defined transparently, and the results of this monitoring should be unveiled periodically. This monitoring should cover programs that serve the public interest, and that include balanced and unbiased news.

4. See the Council of Europe's recommendation on the independence and functions of regulatory authorities for broadcasting sector at [http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec%282000%29023&expmem\\_EN.asp](http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec%282000%29023&expmem_EN.asp)

#### Independence and Transparency

Authorities should ensure (both in legislation and in practice) the political and operational independence of the NTRC, in line with the Council of Europe's recommendations.<sup>4</sup> The government should take steps so the articles of these Recommendations are reflected in legislation and are applied correctly.

To secure NTRC's independence so it can fulfill its duties correctly and on the basis of law, the organization should be independent of political forces and the executive administration, and its decisions should not be influenced by political forces.

Articles that will restrict the dismissal of NTRC members should be added to the law.

NTRC should monitor *ex officio* broadcasters' compliance with legislation and contractual licensing conditions and in case of their non-compliance, appropriate sanctions should be applied.

The authorities should move to enact and ensure proper implementation of detailed conflict of interest rules for appointment to, and continued membership of, broadcast regulatory bodies. Rules that secure the transparency of NTRC's activity should be adopted. In addition, NTRC meetings, their agendas, and official commentaries in connection with adopted decisions should be reflected in these rules.

### Granting of licenses

The government's monopoly over frequencies for broadcasting should be removed. The NTRC should periodically disclose the list of available frequencies and announce competitions on granting licenses, as required by the law. The process of granting broadcast license should be simplified with application of "one window" system.

### Satellite and cable broadcastings

The government should adopt legislation to secure the transmission of broadcasts via satellite and cable (via cable or without cable). The government should also eliminate obstacles when granting frequencies that are fit for these broadcasts. The transmission of these broadcasts should not be dependent on any special terms.

### Licensing for digital broadcast

The government should give digital broadcasting licenses to different operators after switching to digital broadcasting. It should prevent monopolization of the market by allocating licenses only to those broadcasters that currently hold a dominant position in the market.

### Public Broadcasting Service

The government should continue with its support of public broadcasting service. The rule defining and ratifying funding allocated for public broadcasting every year should be annulled, and the public broadcaster should receive an automated transfer from the annual state budget. The articles in the Law on Public Broadcasting that restrict the financing of public broadcasting from the state budget should be eliminated. To solve the issue of financing of the public broadcaster, the government should make sure that this broadcaster has enough finances to prepare and distribute quality programs that are relevant to the public interest.

The government should assist the public broadcaster in resolving problems related to the switchover from analogue to digital broadcasting. Steps should be taken to help the public broadcaster (and state media) transfer and apply new technologies so they can lead discussions about the application of these technologies and public education.

### Independence of Public Broadcasting Service and Transparency of its Activity

Azerbaijan has not yet transformed state broadcasting into public service broadcasting but has simply created a new television and radio broadcasting service (which is called public broadcasting) which is financed from the state budget. As such, there are two national broadcasters financed from the state budget which are under the government's control – AzTV and İctimai. The government should consider establishing new public television and radio channels on the frequencies of AzTV and its affiliates, İdman (Sport) channel and Medeniyyet (Culture) TV, as well as a second and third public radio channel on the frequency currently occupied by the state radio channel.

Authorities should consider amendments to the current legislation and implement existing legislation as required to strengthen *İctimai television and radio's* (ITV and ITR) mandate so it reflects public interests and is based on independence, editorial freedom and non-interference by the authorities. Amendments to the Law on Public TV and Radio Broadcasting should be considered to secure better access and more transparency in İctimai and AzTV and other state media operations and to enable them to use their own property, resources, and allocated resources from the budget.

İctimai's Broadcasting Council, which ensures and enforces that the programming of the public broadcaster is in compliance with its public service remit, should carry out its duties in accordance with the legislation. The appointment procedures for the Director General and for members of the Broadcasting Council should be independent, transparent and not politically motivated. They should provide for a more diverse membership of the Council, including representatives of civil society, active and experienced in the media field. This is particularly important in view of the fact that *İctimai* has tended to yield to political pressure, adjusting its editorial line with a view to satisfy political interests and not interests of the public.

The government and the Milli Mejlis (parliament) should secure the transparent and fair application of rules for electing Broadcast Council members of the Public Broadcasting Service, without any outside interference.

Internal regulations that define inter-broadcasting rules and broadcasting standards for the public broadcaster should be prepared with independent experts. The Director General should oversee the implementation of these rules. The Broadcasting Council should monitor this and give recommendations.

The Broadcasting Council of the public broadcaster should be given the means and resources to monitor the adherence of programs to the purposes and principles of public broadcasting. The Broadcasting Council should adopt the methodology, rules and terms of monitoring via discussions and should unveil the results of the monitoring periodically.

The Broadcasting Council should conduct discussions and consultations with NGOs and independent experts continuously to give recommendations to the director of the Public Broadcasting Service on the basis of the monitoring results.

#### Commercial television broadcasting

The government should take necessary steps to increase investment in the television and radio sector. The government should annul articles in the law that restrict foreign ownership of television and radio broadcasting, and should take steps to encourage well-known investors to enter the media market.

#### Access to information

The Law on the Right to Obtain Information should enact mechanisms to ensure proactive publication of information, including on the websites of all the public agencies.

The practice of accreditation of journalists by public official bodies should be generally reconsidered.

An accountability mechanism for the failure to provide public information and/or for not imparting public information in a timely manner should be established.

#### Other recommendations

The government and NTRC should take measures to ensure the social and labor rights of professional journalists working for public broadcasting services (AzTV as well) and commercial broadcasters.



# Executive Summary

The political and economic climate in Azerbaijan remains hostile to the development of independent mass media and citizen journalists. Traditional television and radio broadcasters are under a tight government control, either directly or through informal means of pressure.

Azerbaijan has 9 national, 14 regional and 13 cable television stations, and 12 radio stations. The authorities' ban on foreign broadcasters from accessing national frequencies in 2009, which took the Azerbaijani services of the BBC, Radio Liberty/Radio Free Europe and Voice of America off the air, resulted in a situation whereby there is virtually no diversity of views in the nationwide broadcast media any more. These stations served as the only sources of alternative information offering an editorial line independent of the state administration. The 12 radio stations which currently broadcast through nationwide frequencies fail to ensure pluralism.

Of the nine national television channels, as many as three are still state-owned. Unlike most of the post-Soviet countries which have privatized state media or transformed them into public-service media, the Azerbaijani government appears to have taken a different approach. In addition to state-funded AzTV, it has launched two more state broadcasters (Idman Azerbaijan and Medeniyyet Azerbaijan) in the last three years. There are supposedly independent television stations in the regions outside of Baku, but they merely broadcast music and entertainment programming and do not provide information about current affairs in the country.

5. See *inter alia* the Council of Europe Recommendation 1641 (2004) at <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta04/erec1641.htm>

..

The Azerbaijani public service broadcaster, Ictimai, does not comply with its public service remit as stipulated by various international standards and good practices.<sup>5</sup> Ictimai does not serve the public interest or ensure pluralism, failing to provide balanced and varied programming for all sectors of the population as required through its membership in the European Broadcasting Union (EBU). Ictimai gives only brief – and often one-sided – information about significant events in the country, such as the activities of political parties or public associations.

The nine national channels work in a top-down manner, with one-way communication between the state and citizens. A number of news items on the nationwide broadcast media are presented in a conspicuously similar manner raising questions over the editorial freedom of these channels.

Just as there is an absence of competing political views in the public domain, there is also no genuine competition among the six private television channels

as far as the coverage of political developments is concerned. The channels do actually compete against each other when it comes to entertainment programming. Nevertheless, while all six channels operate as commercial entities that rely on advertising revenues, they remain tightly controlled by the state and put the interests of owners and outside patrons above the interests of viewers.

Combining state propaganda with a lucrative business operation seems to be working as it generates state-of-the-art television entertainment, sustains audiences, and thus attracts advertisers. To many in Azerbaijan – especially the provincial, older, less-educated, and poorer – free national television is the only affordable form of entertainment. Once people get used to watching soap operas and other appealing entertainment programs on a TV station, they are very likely to also watch the news on the same channel.

The granting of licenses is highly political, biased, and non-transparent. In its current composition, the NTRC consists of seven acting members appointed directly by the president and is fully funded and thus dependent on the state budget. The current system of appointing NTRC members as well as its funding and means of operation do not provide guarantees for NTRC to be an independent and credible media regulator. Broadcast media outlets not sponsored or linked with the state are unable to obtain licenses. For example, Objective TV, an independent TV station which has been critical of the authorities in its reporting, has repeatedly been unsuccessful in its attempts to acquire a terrestrial license and is thus forced to operate on the Internet. According to the NTRC, the winner of the tender (competing for the same frequency as Objective TV) – The Golden Price – was able to demonstrate better technical capacity. Golden Price news reporting is generally not critical of the authorities.

Moreover, the government has recently minimized the number of tenders for new and potential broadcasters to get available frequencies. Until 2010, the NTRC reasoned its refusal to grant new licenses with a lack of available frequencies. The fact that the NTRC refused to publicize the list of available frequencies runs counter to the Article 16.5 of the law on TV and Radio Broadcasting.<sup>6</sup> In 2012 the NTRC admitted having available broadcast frequencies but opined that there was no need for so many television channels in such a small country. The NTRC has further suggested that the appearance of new television channels would negatively affect the advertising incomes of the existing channels which might have an adverse impact on the quality of their work.<sup>7</sup>

The inability to obtain broadcast licenses has led to the emergence of online television channels. There are currently four online television channels in Azerbaijan, with three of them providing platform for alternative and critical views on the way the current establishment manages the public affairs. However, the low-quality and expensive Internet services hinder the development of these channels, given the fact that they are highly dependent on the speed and quality of the Internet (considering that video content must be uploaded onto websites).

6. For the Law of the Azerbaijan Republic on Television and Radio Broadcasting (in Azerbaijani only), see: <http://www.ntrc.gov.az/?/az/content/212/>

7. See the interview with the NTRC chairman at: <http://deverler.org/52723-nusirevan-meherremli-yeni-telekanaldan-danisdi.html>

These online channels would only have a chance to compete with traditional television channels if fully affordable and accessible fiber optic Internet is available in the country.

# Introduction

This report is a publication of the Institute for Reporters' Freedom and Safety (IRFS), an independent, non-profit organization dedicated to promoting freedom of expression in Azerbaijan. The organization's reporting has been instrumental in bringing the issues of press freedom in Azerbaijan to the attention of relevant organizations and officials in the United States and Europe. IRFS has been a member of the International Freedom of Expression Exchange (IFEX) since October 2007.

IRFS' broad freedom of expression approach and its ability to respond rapidly to actions against press freedom are the defining factors of IRFS' activities in Azerbaijan. This report is part of IRFS' broader efforts to safeguard and promote freedom of expression in Azerbaijan.

The report is part of a larger initiative, implemented by IRFS and supported by the OSCE Office in Baku--Change in the air: Advancing the debate on broadcast pluralism and diversity in Azerbaijan.

The overall objective of the initiative is to promote democratic reforms in TV and Radio broadcasting in Azerbaijan. The immediate objectives are: (i) to identify opportunities for potential interventions on broadcast media development for the short and long-term perspective; and (ii) to foster public discourse at an international and local level on shortcomings and reforms made in the areas of TV and Radio broadcasting in Azerbaijan.

In constructing the review, the IRFS has taken several research themes. These are:

- Digital broadcasting. DTT is a prime broadcasting imperative in the digital age. The Azerbaijani Ministry of Communication and Information Technologies has specific responsibilities regarding digital broadcasting. The review explores the options facing Azerbaijan and the economic and environmental aspects of DTT in the coming period.
- Broadcasting revenues and business models. What are the core factors in the Azerbaijani landscape in terms of revenue? What are the business models which are both established and emerging? What are the strengths and weaknesses of the Azerbaijani landscape?

- Funding of Public Service Broadcasting (PSB). The balance between publicly-funded broadcast media and private broadcasters is increasingly a focal point, not just in Azerbaijan but internationally. What are the issues in Azerbaijan and what should the regulator be aware of in its decision-making?
- The shift online. While the Internet and online content services are not regulated by the Azerbaijani authorities, the nature of convergence is transforming the media and in particular broadcasting. This review has looked at the Azerbaijan landscape in terms of production, consumption and revenue and has, where possible, sought to extend that prism to the online sphere. What are the trends online, how are they impacting broadcast media, its audiences and revenue, and what are the national and global trends we see emerging?
- Rights and responsibilities of the NTRC. What are the differences between the Azerbaijani NTRC and the broadcast regulatory bodies of other European countries? To which extent is the NTRC independent in its activities?

The report contains three chapters covering the key areas on which IRFS focuses: national legal framework, environmental review of broadcasting authority of Azerbaijan and public service broadcasting.

The results of the monitoring of the major broadcasters are annexed. The monitoring team has observed media coverage of the Azerbaijani political scene in order to:

- assess whether political entities are granted fair access to the media;
- supply the media, political entities, regulatory organs, citizens, and the international community with data to measure the objectivity of the Azerbaijani media;
- raise public awareness and encourage journalists, editors and media outlet owners to observe standards of balanced reporting;
- motivate citizens to better understand the role of the media.

IRFS uses a methodology developed by MEMO 98, a Slovak organization that has conducted similar media monitoring projects in some 38 countries over the past 12 years.<sup>8</sup>

Similarly, as during previous media monitoring projects conducted by IRFS (during the 2008 presidential elections and the 2009 referendum), the data shows that the majority of the monitored media invariably neglects to offer Azerbaijani citizens opposing views on particular stories.

8. See more at [www.memo98.sk](http://www.memo98.sk)

Also of concern are several disturbing trends in the way the Azerbaijani mainstream media covers political entities. These trends include the fact that the monitored media neglected to offer the opposition any significant air time to challenge the political opinions of the current establishment. The results confirm that Azerbaijani media generally lack investigative and critical reporting that would offer the public an in-depth analysis and assessment of political entities, in particular the work of state officials managing public funds.

The report contains IRFS' recommendations to the Azerbaijani authorities outlining steps needed to ensure pluralism and diversity of broadcasting media in Azerbaijan.

# Chapter One:

## Broadcasting and Media Policy

According to the “Law on Television and Radio Broadcasting” there are four forms of broadcasting in Azerbaijan: state, public, private and municipal.<sup>9</sup> However there is no municipal (community) broadcaster in the country.

There are a number of relevant legal documents that together form the legal framework for the media environment in Azerbaijan.

9. For the Law of the Azerbaijan Republic on Television and Radio Broadcasting (in Azerbaijani only), see: <http://www.ntrc.gov.az/?/az/content/212/>

10. See <http://en.president.az/azerbajian/constitution/>

11. See reference 9

12. See the Law on Public TV and Radio Broadcasting at: <http://www.azerweb.com/laws/16/index.pdf>

13. See, *inter alia*, the OSCE Representative on Freedom of the Media’s Regular Report to the OSCE Permanent Council, 15 November 2007 ([http://www.osce.org/documents/rfm/2007/11/28110\\_en.pdf](http://www.osce.org/documents/rfm/2007/11/28110_en.pdf)) and the Council of Europe resolution 1545 “Honoring of obligations and commitments by Azerbaijan” (<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/txt/ta07/ERES1545.htm>).

### Constitution

Article 47 of the Constitution guarantees freedom of thought and speech.<sup>10</sup> Censorship was formally abolished in 1998. Article 50 of the Constitution and the Law on Mass Media provide for the freedom to seek, receive and disseminate information through the media. While there are legislative guarantees of press and speech freedom, their proper implementation remains problematic.

### Law on Radio and TV Broadcasting

Article 3 of the Law on “Radio and TV Broadcasting” delineates the fundamental principles of tele-radio activities – ideological and political pluralism, and balance and objectivity.<sup>11</sup> Apart from the Law on “Radio and TV Broadcasting,” Public TV (Ictimai TV) is specifically obligated to adhere to the “Law on Public TV and Radio Broadcasting”.<sup>12</sup> According to Article 4 of the law, the principles of Public TV broadcasting include independence; objectivity, impartiality and accuracy of information; pluralism and tolerance; estrangement from clear political interests; and diversity.

Article 32 of the Law on “Radio and TV Broadcasting” delineates the requirements for programs, including obligations for objectiveness, neutrality, a factual representation of information and events, and a pluralistic approach.

### The Criminal Code

Articles 147 and 148 of the Criminal Code, which make a journalist criminally liable for defamation, still remain in effect, despite calls from the OSCE and the Council of Europe to abolish them.<sup>13</sup>

### The Law on Radio and TV broadcasting

Despite the fact that the law regulating TV and radio broadcasting exists, there are problems with its proper implementation.<sup>14</sup> In addition, the law lacks certain provisions with regard to particular fields of the broadcast media. While the NTRC is meant to oversee the implementation of the law, it actually violates some of its principles. For example, according to Article 16.5 of the Law on Television and Radio Broadcasting, the relevant executive authority which calls tenders for frequencies (the NTRC) shall publicize the list of available frequencies at least once a year.<sup>15</sup> The NTRC has violated this principle given that it has not disclosed information about available frequencies for the past three years. In addition, the NTRC has so far failed to respond to a number of requests by Media Rights Institute to publish such a list.

14- 15. For the Law of the Azerbaijan Republic on Television and Radio Broadcasting (in Azerbaijani only), see:

<http://www.ntrc.gov.az/?/az/content/212/>

According to the law, the NTRC shall announce a tender for a broadcast license; it shall determine its terms and conditions and then organize the competition. There was a tender in November 2010 (for the 103.3 FM radio frequency) which did not provide sufficient transparency - an investigation by IRFS revealed that the winner of the tender was the son of a high-ranking official from the presidential administration.<sup>16</sup> While apparently there are available frequencies, the next tender was called only two years later – in October 2012, when the NTRC announced a tender for a radio frequency in Ganja city.

16. See <http://bit.ly/SZOGQC>

In an effort to justify the reason for the lack of tenders, the NTRC maintains that while frequencies are available, there is no need for new tenders. According to the NTRC, the appearance of new TV channels may undermine the media advertising market and may cause financial difficulties for existing TV channels.

As a media regulator, the NTRC has undoubtedly a difficult task, given that the choice of operators entitled to establish broadcasting services determines the degree of balance and pluralism in the broadcasting sector. Broadcast media use airwaves which are limited public resources and thus have a higher obligation and social responsibility towards the public. The current government monopoly on broadcast media indicates that broadcast media has failed in its essential role to promote social, cultural and political objectives and the NTRC in turn has failed to regulate the activity of media to protect society against the risks of biased information. While the NTRC is entitled to take into consideration different aspects effecting the broadcast media environment, including the size of the advertising market, it is crucial that its broadcasting licensing procedure is clear and precise and applied in an open, transparent and impartial manner. However, given the current situation, it appears that it is not just the size of the advertising market but rather unwillingness to open the broadcast media sector for alternative views and pluralism which prevents the NTRC from granting new licenses. This goes against international practices and has the potential to hinder the



development of the media sector.

By law, decisions adopted by the NTRC are considered normative legal acts<sup>17</sup>. A number of domestic and international organizations criticized a decision by the NTRC (adopted in 2009) to ban broadcasting on national FM frequencies of four popular radio stations - Europe+Baku (Russian radio), RFE/RL, BBC and Voice of America. The ban further restricted the ability of people to receive objective, pluralistic, impartial and neutral information – which was previously provided by these radio stations.

Article 5.1 of the Law on TV and Radio Broadcasting stipulates that a single TV and radio broadcaster, as well as its structural subdivision, may not engage in the transmission of more than two television and three radio channels, except for cable network broadcasting and broadcasting to foreign countries.<sup>18</sup> In addition, Article 5.2 of the law delineates that a “natural or legal person may be the founder (co-founder) of only one TV and radio broadcaster”. However, the Azerbaijan Television and Radio Broadcasting JSC is the founder of three television channels (AzTV, Idman Azerbaijan and Medeniyyet TV) and one radio channel (Radio Azerbaijan) which is in conflict with the above mentioned provisions of the law. To date, the NTRC has not taken any action to deal with this violation of the law.

17-20. For the Law of the Azerbaijan Republic on Television and Radio Broadcasting (in Azerbaijani only), see: <http://www.ntrc.gov.az/?/az/content/212/>

According to Article 22.1 of the Law on TV and Radio Broadcasting<sup>19</sup>, the license for broadcasting is issued for six years, if the application form does not specify a shorter period. If the use of the selected frequency in these terms is technically not possible, the license may be issued for a shorter period. However, the law does not specify the term of license for state and public broadcasters. To date, no action has been taken to deal with this loophole.

The importance of municipal broadcasters lies in the fact that, as stated in the Law on Television and Radio Broadcasting<sup>20</sup>, a municipal broadcaster broadcasts informational, educational and entertaining programs aimed at the protection of the interests of the entire population and the region it represents. Considering their role in educating people and raising public awareness, the authors of this report believe the municipal broadcasters to be of great importance for the country. There is a window of opportunity to ensure diversity and pluralism via less controlled municipal TV and/or radio, as the current legislative framework allows for the establishment of a municipal broadcaster in cooperation with individuals and legal persons. Specifically, the Law on Television and Radio Broadcasting reads that ‘a municipal broadcaster may be founded by one or more local municipalities or individuals and legal enterprises’.

Lack of transparency and independence of TV channels

Information about owners of TV and radio stations is not publicly available in Azerbaijan. Not long ago it was possible to get the names of owners by

submitting information inquiries to the Tax Ministry<sup>21</sup>.

The current procedure, according to which all members of the NTRC are appointed by the president, does not provide for independence, impartiality and transparency – which are all essential in the work of a media regulator.

The recent amendments to the Law on the Right to Obtain Information and the Law on Commercial Secrets adopted by the parliament and endorsed by the president make it impossible to get information on the founders of commercial entities.<sup>22</sup>The government should be doing exactly the opposite - it is a good international practice to ensure public access to detailed information regarding the involvement of individuals and of legal entities in the ownership structures of the media and on the nature and extent of their respective involvement. Transparency of media ownership is not only important for the authorities, in charge of implementing regulations concerning media pluralism so they can take informed decisions, but also for the public to make its own analysis of the information, ideas and opinions expressed by the media.<sup>23</sup>

State and private broadcasters do not publicize their financial statements, although the broadcasters that are funded from the budget should make this information available to the public.

According to Articles 12.3.1 and 14.1 of the “Law on Accountancy”, commercial and government-funded entities must prepare their financial statements and publish them either in the press or in a digital form (website).<sup>24</sup>AzTV violates the principles of this law and fails to publish its financial statements on its website ([www.aztv.az](http://www.aztv.az)).

Violation of the principles of the “Law of Azerbaijan Republic on Public TV-Radio Broadcasting”

Following joint recommendations from the Council of Europe and the OSCE Representative of the Freedom of Media, a public service broadcaster (Public TV or ITV) was established. Following the adoption of the Law on Public TV and Radio Broadcasting, it began broadcasting on 29 August 2005.

The rights and responsibilities of the Public Broadcaster are stated in Articles 7 and 8 of the Law on the Azerbaijan Republic on Public TV and Radio Broadcasting.<sup>25</sup>Monitoring by IRFS was conducted from September until November 2012 *inter alia* focused on news and current affairs programmes of both ITV and ITR. The monitoring revealed that events and demonstrations organized by political parties and public associations are seldom covered in news programs, except for those organized by the ruling party. This is not in line with Article 8 of the Law on Public TV and Radio which stipulates that the public broadcaster should provide unbiased and neutral news concerning activities of government organs, political parties, social movements, religious confessions and financial and commercial structures.

21. *The inquiries were sent as part of the Law on the Right to Obtain Information.*

22. <http://bit.ly/Y7ydhW>

23. *See, inter alia, the Council of Europe Recommendation CM (2007)2 of the Committee of Ministers to member states on media pluralism and diversity of media content* <https://wcd.coe.int/ViewDoc.jsp?id=1089699>.

24. *See the “Law on Accountancy” at* <http://bit.ly/Wd01Bc>

25. *See* <http://bit.ly/T0q9fw>

### Technical problems in TV and radio broadcasting

Azerbaijan is currently undergoing a transition from analog to digital broadcasting. However the existing domestic legislation concerning television and radio broadcasting has not been adapted to suit the peculiarities of digital broadcasting. This makes it impossible to make full and efficient use of all the possibilities that digital broadcasting offers.

In fact, all nine national TV channels use the same transmitter to broadcast their signals - via a digital transmitter of the Radio and Television Production Association (RTPA). Given the fact that Azerbaijani legislation lacks provisions which would allow TV channels to buy their own transmitters, they have no choice but to use the services offered by the RTPA. In case of a technical problem, all national television stations could go off air at the same time.

The authors of this report recommend amending the current legislation to allow individual broadcasters to use their own transmitters for broadcasting.

## Chapter Two:

# The National TV and Radio Council

The lack of certain provision in the legislation to regulate particular areas of broadcasting, problems with the implementation of existing legislation and the monopoly in the broadcasting market retards the development of national broadcasting. The NTRC, which has to supervise the implementation of the law on TV and Radio Broadcasting, is not independent of the government and there is no transparency in its activities. Therefore it fails to solve existing problems.

The NTRC is the 51<sup>st</sup> member of the <http://www.epra.org/>European Platform of Regulatory Authorities (EPRA)<sup>26</sup>, whose main function is to ensure cooperation between regulatory authorities of European countries. Up to now, 53 regulatory authorities in Europe have become members of the EPRA. The structure and power of broadcasting regulatory authorities of all member countries differ from one-another, so we decided to compare the authority and power of the NTRC to those of other European countries to determine its positive and negative sides.

The comparison was conducted according to different criteria:

- Organization of the activity of broadcasting regulatory bodies,
- Their rights and responsibilities,
- Their sources of funding; and
- Websites

### *Organization of the activity of broadcasting regulatory bodies –*

In Ukraine, the National Council is composed of eight persons. Four members of the National Council are appointed by the Verkhovna Rada of Ukraine (Parliament) and four members of the National Council are appointed by the president. One and the same person may be appointed as a National Council member for a repeat term only once. Selection of four members by the Parliament is transparent: the Parliament makes an announcement in mass media about the selection of candidates for the office of the National Council member, for which nominees can submit their application within 21 days. The relevant law of Ukraine clearly states that in order to be eligible to become a member of the National Council, a candidate should have higher education and no less than five years of work experience in the sphere of television and radio broadcasting.<sup>27</sup>

26. For more information about EPRA visit <http://www.epra.org/>

27. For more information on the Law of Ukraine on the National Television and Radio Broadcasting Council of Ukraine, see: <http://bit.ly/Y4WSUp>

In Turkey, the Radio and Television Supreme Council is composed of nine members elected by the Turkish Grand National Assembly. Members must have at least four years of higher education, have worked for at least ten years in public bodies and institutions or private enterprises on matters related to their professions and have sufficient professional knowledge and experience as well as qualification adequate for being a civil servant.<sup>28</sup>

28. For more info on the Turkish Broadcasting Law, see <http://bit.ly/UPrjGR> and right click the hyperlink 'Turkish Broadcasting Law No: 6112 Dated 3 March 2011'

29. For the full text of NTRC Regulations (in Azerbaijani language only) see NTRC's official website <http://bit.ly/ZuqbA0>

In Azerbaijan, the National Television and Radio Council consists of nine members appointed by the president of Azerbaijan. Persons with dual citizenship, those having obligations before other states, those serving in the executive or judiciary systems, who are engaged in paid activities excluding pedagogical and creative work, religious figures, persons whose inability has been proven by the court and who have been sentenced for crimes, are not entitled to be appointed as members of the Council. Members may be re-appointed.<sup>29</sup>

Their rights and responsibilities -

In Ukraine, the National Council supervises the following: licensees' compliance with the procedure of broadcasting during election campaigns and referenda as determined by legislation; television and radio broadcasters' compliance with legislation in the sphere of the protection of public morals; and television and radio broadcasters' compliance with the requirements of legislation on the share of foreign investments in their constituent funds, etc.

In Turkey the Supreme Council takes essential precautions, in the field of media services, for securing freedom of expression and information, diversity of opinion, media pluralism and a competitive environment. The Council also makes/commissions public opinion polls concerning media services and shares the results of these polls with relevant parties and the public.

In Azerbaijan, the "Law on TV and Radio Broadcasting" and "National Television and Radio Council Regulations" has granted sufficient power to the NTRC, although there are occasional problems with its implementation. For example, the NTRC has the right to issue binding decisions for television and radio broadcasters within its authority. However, despite having such a right, the NTRC fails to take appropriate measures to ensure broadcasters' compliance with the relevant legislation. Generally speaking, the public has little knowledge about the activity of the NTRC. People hear about the NTRC's activities only when it announces license competitions.

Despite having the responsibility under legislation, the NTRC fails to supervise the conformity of TV/Radio broadcasters' activities with relevant laws. For instance, on two occasions the broadcaster, "Lider TV", transmitted pornographic footage during prime time and the NTRC took no measures against the broadcaster despite having the power to do so.

The NTRC fails to inform the public about its internal meetings which should be regularly held according to relevant regulations.

Last but not least, the NTRC does not properly regulate the distribution of frequencies.

Sources of funding -

The broadcast regulatory bodies of Azerbaijan, Ukraine and Turkey have different sources of funding.

In Ukraine, according to relevant legislation, the National Council can be funded both from the state budget and several other sources.

In Turkey the revenues of Radio and Television Supreme Council includes broadcasting license fees from media service providers; annual usage fees for television channels, multiplex capacity and radio frequency, etc.

In Azerbaijan, according to the Television and Radio Broadcasting Law, the NTRC is funded solely from the state budget. No other donors are specified in the legislation.

Website of regulatory bodies –

Comparing the websites of the broadcast regulatory bodies of the three countries (Ukraine, Turkey and Azerbaijan), the site of the Azerbaijani NTRC is the most poorly resourced.

The website of the NTRC is available in two languages, Azerbaijani and English. However the English version is under construction and lacks most of the information that is available in the Azerbaijani version of the website. Even the Azerbaijani version of the website has not been updated for months. For example, while the new president of the Azad Azerbaijan TV channel took office in July of 2012, it has not yet been mentioned on the NTRC website (which at the time of the writing of this report still had the name of the former president). Moreover, the NTRC's website still mentions the names of three foreign broadcasters (BBC, Voice of America and Radio Liberty) under the section, "Foreign radio broadcasters functioning in Azerbaijan". The broadcasting of these radio channels was banned in 2009. The 'list of frequencies' section in the website is empty and the online section of the NTRC website is inactive.

As for the website of the regulatory bodies of Turkey and Ukraine, here one can easily access information regarding the regulatory bodies' activities and reports.

A short investigation by IRFS into the broadcast regulatory bodies of the three

countries shows that there are many deficiencies in the activity of the Azerbaijani National Television and Radio Council.

For instance, the Ukrainian law on the National Television and Radio Broadcasting Council seems to provide for some diversity by having half of the members appointed by the president and the other half by the parliament. In Azerbaijan, however, all of nine members of the NTRC are appointed by the president. Another positive side of the Ukrainian law is that it clearly states that a member of the Council can be re-elected only once. By contrast, the relevant law of Azerbaijan does not specify for how many times a member can be re-appointed.

30. For full profile of the NTRC at EPRA, see: <http://bit.ly/12fdA3C>

In addition, while in Ukraine and Turkey the broadcast regulatory bodies may have diverse funding, in Azerbaijan, the only source of funding for the regulator is the state budget.<sup>30</sup> It is also noteworthy that the rights and responsibilities of the Azerbaijani NTRC have been limited to that of granting broadcast licenses and supervising their compliance with the requirements of relevant legislation. In Turkey, the Radio and Television Supreme Council is in charge of ensuring freedom of expression and information, diversity of opinion, media pluralism and competition environment.

# Chapter Three:

## Public Service Broadcasting in Azerbaijan

Public service broadcasting (PSB) is based on the principles of universality of service, diversity of programming, provision for minority audiences including the disadvantaged, sustaining an informed electorate, and cultural and educational enrichment. The concept was conceived and fostered within an overarching ideal of cultural and intellectual enlightenment of society. The roots of public service broadcasting are generally traced to documents prepared in support of the establishment of the British Broadcasting Corporation (BBC) by Royal Charter on 1 January 1927<sup>31</sup>.

At the core of public service broadcasting is a commitment to operating radio and television services in the interest of the public good<sup>32</sup>. While the ideals on which PSB are based suggest services that are characterized by universality and diversity, there have been notable violations to these ideals in several countries, including Azerbaijan. In Azerbaijan, the state-owned broadcasting system has become apolitical mouthpiece for the ruling power. Such abuse of the broadcasting institutions' mandate has made Azerbaijani public service broadcasting, Ictimai TV, the subject of frequent political debates.

### Background to the Azerbaijan PSB model

Public broadcasting is under the spotlight in Azerbaijan. To meet a commitment to develop genuine public service broadcasting as one of the conditions for joining the Council of Europe<sup>33</sup>, the government of Azerbaijan introduced a public service broadcaster, the Public Television and Radio Broadcasting Company, or ITV for short. ITV was established on the basis of the State-funded AzTV Channel 2. Public TV began broadcasting on 29 August 2005 and its geographical coverage is less than that of AzTV.

ITV was supposed to provide the public with an alternative to the existing state and commercial broadcasters<sup>34</sup>. But how well has it succeeded?

Since the establishment of ITV, IRFS has been at the forefront of civil society efforts to ensure that ITV meets the Council of Europe's requirements and fulfills its public service mandate. IRFS's research, which was carried out as part of the European Commission, OSCE Office in Baku and Council of Europe-supported "Free Airways" project, concluded that ITV was too close to the government and not fully independent<sup>35</sup>.

31-32 Further reading:

<http://www.bbc.co.uk/historyofthebbc/resources/factsheets/1920s.pdf>

Avery, R. K., editor. *Public Service Broadcasting in a Multichannel Environment: The History and Survival of an Ideal*. White Plains, New York: Longman, 1993.  
Carnegie Commission on Educational Television. *Public Television: A Program for Action*. New York: Bantam, 1967.

Carnegie Commission on the Future of Public Broadcasting. *A Public Trust*. New York: Bantam: 1979.

Day, J. *The Vanishing Vision: The Inside Story of Public Television*. Berkeley: University of California Press, 1995.

Emery, W. B. *National and International Systems of Broadcasting: Their History, Operation, and Control*. East Lansing: Michigan State University Press, 1969

33. See <http://bit.ly/V4bpvJ>

34. *Ibid*

35. Free Airways: Azerbaijan TV and radio broadcasting monitoring and democratic reform initiative, IRFS, report released in February 2011



36. see, for instance, joint NGO submission to the UN Universal Periodic review <http://www.unhcr.org/refworld/country,,ART19,,AZE,,508934592,0.html> or IRFS report 'The Right to Remain Silent' available at [www.irfs.org](http://www.irfs.org)

37 See interview with NTRC Chairman <http://bit.ly/W6cl24>

38 Ibid

39. Article 3 of "the Law on Public Television and Radio Broadcasting", Full text of the law is available at <http://bit.ly/10aG4wr>

40. For more information about PSB in Denmark, see: [http://ptks.pl/cejc/wp-content/uploads/2012/07/CEJC\\_Vol3\\_No1\\_Nielsen.pdf](http://ptks.pl/cejc/wp-content/uploads/2012/07/CEJC_Vol3_No1_Nielsen.pdf)

41 Article 10 of the "TV – Radio Broadcasting Law" Full text of the law is available at <http://bit.ly/VkOf71>

42. Article 23.2 of "the Law on Public Television and Radio Broadcasting", Full text of the law is available at <http://bit.ly/10aG4wr>

43. See interview with NTRC Chairman <http://bit.ly/W6cl24>

ITV does not ensure balanced programming and political pluralism, and has therefore been repeatedly criticized<sup>36</sup>.

At the present time, ITV receives most of its funds directly from the state budget<sup>37</sup> which raises questions about its independence. The authors of this report believe that the state television broadcaster, AZTV, also financed with public funds<sup>38</sup>, must be converted into a public service broadcaster and the government must ensure the functioning of AZTV in line with the legislation that regulates public service broadcasting.

The National TV and Radio Council, which supervises television and radio broadcasting, must ensure the quality of public service broadcasting services.

Public radio in Azerbaijan is also called Ictimai. However, as is the case with the ITV, the role and activities of Ictimai Radio do not comply with the requirements for a PSB<sup>39</sup>.

PSB should serve as a good example for other broadcasters. There are often more than one PSB in developed countries, for example as in Denmark<sup>40</sup>. IRFS believes that similar provisions should also be included in the Law of the Azerbaijan Republic on TV and Radio Broadcasting. According to the current TV-Radio Broadcasting Law, individuals and legal entities have the right to establish a private broadcaster; here the private broadcaster must be replaced with a public service broadcaster<sup>41</sup>. Competition may increase the quality of public service broadcasting, as each PSB will try to produce better programs in order to attract more viewers and advertisers, and make more income from advertising. Licenses for PSBs (public TV and radios) must be granted on a competitive basis and for a particular period. At the same time, the government may make balanced and equal donations to PSBs if they are interested in their development.

#### Issues for Azerbaijani PSB funding

The public service broadcaster of Azerbaijan is financed from the state budget, just like state television<sup>42</sup>. In addition, the PSB obtains income from advertising and other sources<sup>43</sup>.

Article 23 of the "Law on Public TV and Radio Broadcasting"<sup>44</sup> provides a list of sources by which the public service broadcaster can be financed:

- 23.1.1. unless this Law specifies otherwise, subscriber's fee;
- 23.1.2. sponsor's welfare;
- 23.1.3. pecuniary aid of individuals and legal persons;
- 23.1.4. incomes from advertising;
- 23.1.5. incomes from sale of audio and audiovisual programs
- 23.1.6. incomes from sale of feature films, serials, documentaries, cartoons

- and other films prepared directly by the broadcaster itself;  
 23.1.7. incomes from concerts and performances;  
 23.1.8. other resources not forbidden by Azerbaijani legislation of.

There are enough sources of financing for the PSB in Azerbaijan. Apparently government funds are not specified as a source of financing the PSB. State contributions prevent the PSB from acting independently and make it dependent. If the government does really want to make contributions to the development of the PSB, then the financial assistance allocated by the government must be in another form: e.g. in some countries 1% of tax revenues are assigned for the PSB. A similar procedure could be applied in Azerbaijan as well. Taking this step the government would allow the PSB to act independently.

IRFS believes that there are enough sources of income for the PSB in the relevant legislation. Currently, ITV gets income both from state allocations and advertising, as well as several other sources<sup>44</sup>. However, the general public is not properly informed about ITV's financial activities as the latter does not publicize such information nor does it respond to inquiries regarding its financial activities (despite the fact that it is required to do so by law<sup>45</sup>).

As stated above, the government allocates certain amounts of funds for ITV each year. However, the amount of these contributions and the criteria according to which this amount is determined is unknown.

ITV is a member of the European Broadcasting Union (EBU)<sup>46</sup> and was one of the organizers of the Eurovision 2012 Song Contest that was held in Baku in May of 2012, i.e. Ictimai TV can make profit from international events as well.

In conclusion, we can say that ITV has enough sources of income, but the fact that the government is the primary donor severely undermines its independence.

#### PSB Online

The last several years have seen a marked increase in Internet use, both globally and within Azerbaijan, as technological developments and a rising consumer demand have made it possible for more people to access the Internet. In parallel to this growth in Internet use, however, the government has made attempts to restrict people from accessing the Internet and from what they can do online<sup>47</sup>.

Public service broadcasters in Europe compete with online broadcasters, as the Internet is rapidly developing nowadays. Thanks to the Internet, people can easily communicate and get access globally. Given these advantages of the Internet, people prefer to get the latest news from social media.

Azerbaijanis also use the Internet as an alternative source of information,

45. Article 10 of the Law on Public Television and Radio Broadcasting", Full text of the law is available at <http://bit.ly/10aG4wr>

46. For more information about the European Broadcasting Union and ITV membership, see <http://bit.ly/V4qVHX>

47. Searching for Freedom: Online Expression in Azerbaijan, the Expression Online report, November 2012. <http://bit.ly/YvWa0Q>

48. *Ibid*

49. The website of ITV is available at <http://en.itv.az/>

50. See <http://ireport.cnn.com>

51. See <http://bbc.in/9MaelC>

52. Finding from the IRFS research

53. Article 3 of “the Law on Public Television and Radio Broadcasting”, Full text of the law is available at <http://bit.ly/10aG4wr>

54. See the website of Space TV. <http://www.spacetv.az/>

though one cannot say that the majority of the Azerbaijani population has access to the Internet<sup>48</sup>. However, Azerbaijani diaspora and citizens of other countries use the Internet to get more objective information about Azerbaijan.

The Azerbaijani public service broadcaster should offer more online services to the population in comparison to other TV broadcasters. However, there are problems in the implementation of public services online. While ITV does have a web resource<sup>49</sup>, it only introduces a handful of online services. Browsing the website of ITV, it seems that one can find any information there. The website is in two languages (Azerbaijani and English), but not all the information is available on the English version of the site. It should also be underlined that the website of ITV does not provide visitors with an opportunity to submit content, comments or suggestions, despite it being a public service broadcaster. One cannot find an email address to submit his/her online application. No information is periodically posted on the website of Ictimai TV describing the activities of the broadcaster.

The majority of international broadcasters place announcements in their websites, such as CNN’s iReport<sup>50</sup> or BBC’s ‘Have your say’<sup>51</sup>, to receive comments and views from the audience. The significance of such cooperation can be explained by the fact that people can witness and record interesting and extraordinary events or crimes, and instantly report them to broadcasters. ITV should consider setting up such a feature to receive feedback and/or content from the public. ITV has only one or two correspondents in most regions of Azerbaijan, which is not enough<sup>52</sup>. As such, ITV should consider enhancing its public services by cooperating with citizen journalists and by allowing the public to comment on its programs.

In line with its mandate to serve the interests of the public, the website of ITV, [www.itv.az](http://www.itv.az), should welcome user-generated content. However, [itv.az](http://www.itv.az) neither receives UGCs from its audience, nor publishes them. Readers of news stories have no opportunity to make comments. By comparison, other information portals in Azerbaijan, such as [www.contact.az](http://www.contact.az) and [www.qafqazinfo.az](http://www.qafqazinfo.az), have such a feature: readers are free to write their opinions/criticisms about the stories published in these portals.

ITV does not comply with the principles of the “Law on Public TV and Radio Broadcasting”<sup>53</sup>, according to which it should publish the results of audits and a list of its activities. Being a public service broadcaster, ITV should provide citizens with full access (both via television and online). Live TV and Live Radio services available in the website are not functional. It should be noted that currently, online services provided by private broadcasters are of better quality than services provided by ITV. For example, the website of Space TV<sup>54</sup> offers an online service where users can get registered and subscribe for regular online news.

In addition, the website of ANS TV is of better quality than ITV’s due to the inclusion of comprehensive information about its activities.

Government and civil society stakeholders should act together to improve the quality of the public service broadcasting in the country. Only then will it be possible to ensure better public TV broadcasting and better online services.

# Conclusion

While there are several television stations with national coverage in Azerbaijan, citizens have very limited access to diverse political views in the broadcast media. This is most importantly due to a *de facto* government monopoly on television, with all national TV channels presenting mainly the activities of the authorities and rarely showing opposition leaders and their views. In general, the media environment has deteriorated in the last few years, with detentions, defamation lawsuits and other forms of pressure on journalists constraining freedom of the media and creating an atmosphere that is not conducive to the freedom of ideas inherent in a democratic system.

Due to the difficult economic situation of the media, journalists generally receive very low salaries – consequently, they often accept bribes from politicians to either write favorable articles or to attack the sponsor's political opponents. Low professional standards remain another long-term problem significantly affecting the media environment. Generally, the Azerbaijani media do not facilitate the exchange of opinions, public debate, confrontation, investigation and commentary that would offer the public fully informed, analyzed and assessed views of persons seeking elected office. Investigative and in-depth analytical reporting is virtually non-existent, with self-censorship being high, and journalists and editors avoiding sensitive topics, especially any mention of the Aliyev family.

For the recent years, the government has strengthened its hold over broadcast media, through regulations, direct ownership or indirect economic control. The nine national channels work in a top-down manner, with one-way communication between the state and citizens. A number of news items on the nationwide broadcast media are presented in a conspicuously similar manner raising questions over editorial freedoms of these channels. It is alleged that television channels' editorial decisions are determined by the president's office. Many believe that this form of control is done through coercion, given the fact that television managers are closely linked with the country's political elite and are thus willing partners of the ruling regime.

The current system of appointing NTRC members as well as its funding and means of operation do not provide guarantees for NTRC to be independent and credible media regulator. In addition, the distribution of licenses is highly political, biased, and non-transparent.

The overall environment in which the Azerbaijani media currently operates prevents it from holding those in power to account, and from providing citizens with quality independent news reporting. When the media is unable to fulfill their basic functions, the society cannot properly voice its concerns or canalize its discontent through peaceful, institutionalized means. Until this fundamental right is guaranteed, a more democratic Azerbaijan remains a distant prospect.



