

## DIGITAL MEDIA REGULATION IN V-4: THE CZECH REPUBLIC, HUNGARY, POLAND AND SLOVAKIA

This is review of National Regulatory Authorities (NRA) from Slovakia, Hungary, Poland and Czech Republic with the aim to gain insights on the policies and approaches enacted and suggested by these regulatory bodies on regulating online media. The study found that self-regulation of digital media is currently under-developed in the selected countries. It was found to be emerging in Slovakia. Czech Republic and Hungary required further development of their nucleus co-regulatory approaches, while public regulation was Poland's most viable solution, complemented by a level of successful co-regulation.

This article argues that existing strategies have challenges and are sub-optimal. Consequently, we acknowledge that regulatory needs are diverse and the variations observed between given existing and emerging regulatory systems necessitate the analysis of governance approaches.

### Legacy and Digital/Social Media Self-Regulation and Co-regulation in V-4

We isolated two out of three regulatory forms, self-regulation and co-regulation, for analysis based on the availability of facts. According to OECD, "Media self-regulation is a joint endeavour by media professionals to set up voluntary editorial guidelines and abide by them in a learning process open to the public." If the State and the private regulators co-operate in joint institutions, this is called "co-regulation." We made two observations from our analysis: firstly, it is difficult to distinguish between self-regulation and co-regulation when they are at work, and secondly, the number of countries implementing effective self-regulation is very low, while the implementation of co-regulation remains questionable in some countries. The Czech NRA, Rada pro rozhlasové a televizní vysílání (RRTV), reported co-operation with the *Sdružení pro internetový rozvoj v České republice, z.s.p.o. - SPIR*, a self-regulatory body, as successful in 2016, although, there were no administrative proceedings which involved it. The RRTV assessed conclusions and analyses of the self-regulator and noticed that the key regulatory issue was concerned with online betting (RRTV 2016 Annual Report, 2017, 16). The RRTV did not report any form of cooperation with the other self-regulator, *Asociace televizních organizací, z. s. p. o. - (ATO)* (RRTV 2017: 107-108). The Czech Association of Television Organisations (ATO) and the Slovak Independent Broadcasters Association (SIBA) are primarily professional associations of organisations in television and radio broadcasting in the Czech Republic and Slovakia respectively. Their members include public broadcasters, for ATO, and commercial broadcasters in both cases. In contrast to SIBA, ATO has worked out its own Code of Ethics for news and current affairs programmes in television broadcasting. Although ATO cooperates, according to its Statute, with the Czech media regulator, its self-regulation is complementary to administrative regulation by the media regulator, and judicial regulation by the courts. This existing regulatory triplicity could explain why only nine findings from 2009 until early 2018 were issued by the Ethical Commission of ATO. Interestingly, the last finding was issued in 2014. Clearly, ATO's ethical self-regulation is limited, firstly, to its members, secondly, within the television broadcasting sector, and thirdly, to news and current affairs programmes and is not working well, if at all.

In the press sector of the Czech Republic, there is a Commission for Ethics at the Syndicate of Journalists. The commission, geographically limited to the territory of the Czech Republic, is supposed to cover only the work of journalists, including members and non-members of the Syndicate, within the dictates of professionalism, although, the Code of Ethics is only binding for its members. Furthermore, it extends its coverage to online versions of newspapers, and the website of the

Czech Television. Nevertheless, the system does not work, and the commission reports that its calls for cooperation with third parties remain unanswered.

In Slovakia, the radio and television sector has not officially attempted implementation of self-regulation except within the advertising sector. The Advertising Standards Council (ASC), a private sector initiative for ethics in advertising which was co-founded by SIBA, has its own Code of Ethics for Advertising Practice. However, these ethical principles are *de facto*, only binding for members, and do not cover advertising on social media. The Interactive Advertising Bureau (IAB) of Slovakia, an association for online advertising, comes closer to the effective regulation of social media with its issuance of the Code of Ethics for Electronic Media. The code is comprehensive in covering all electronic media, goes beyond the requirements stated by law, and is open to all complainers. However, it is limited to marketing-related communication. The code defines electronic media as "any medium which ensures electronic interactive communication through the internet." This could, theoretically, include social media which show some signs of marketing activity. An even more important regulatory instrument is the Code for Copying Content from the Internet (2014), also issued by IAB. The Code focuses mainly on identifying media which base their business model on such illegal and unethical practices, with little attention to minor breaches. The Ethical Commission exists to supervise adherence to this Code, however, IAB does not publish results of its regulatory activities and this qualifies for a completely non-transparent self-regulation.



Neither of the above mentioned codes, Code of Ethics for Electronic Media nor the Code for Copying Content from the Internet, has reports published on it, and both codes are specific in their focus. The most recent attempt at regulation of the digital world in Slovakia could be noticed in 2017 when IAB joined the founding body of the Press Council, which was responsible for regulating ethical aspects of print journalism, and since then has become the Press-Digital Council (TRSR). As a result, the Ethical Code of a Journalist has changed and currently covers providers of information services and Internet portals. The aims of the Ethical Code of a Journalist include, "ensuring that all content published in print or on the Internet should be in line with the generally binding Slovak legislation and good manners," and it is purported to serve as a guideline on all technological platforms. However, unlike the Code for Copying Content from the Internet, which is binding for all journalists, the Ethical Code of a Journalist is only binding for those who explicitly sign up to it.

It is important to consider these limitations relating to journalistic content and digital media in Slovakia. The term digital media remains open to interpretation. The Code of Ethics of a Journalist, which is regulative for the TRSR, its executive body of ethics, seems to be open to an extremely wide interpretation of the tasks of TRSR. This blurs the scope of regulation and makes implementation and oversight difficult. From a practical point of view, TRSR's three sessions and ruling in nine cases, including an online version of a newspaper in 2017, represents relatively low frequencies of cases and meetings. Apparently, TRSR does not plan to deal with self-regulation of digital media, apart from journalistic content, in the near future. However, there is an ongoing debate regarding the placement of "due accuracy and impartiality" under self or co-regulatory regime, and TRSR might have a role to play subsequently. Generally, it appears that the majority of social media platforms are still not effectively regulated in Slovakia; exceptions can be made of those

which are defined as journalistic and fall outside the broader scope of social media, voluntarily adhere to self-regulation, or have registered voluntarily with the Council for Broadcasting and Retransmission (RVR) following guidance issued (Video on Demand, referring to AVMSD). In spite of the growing interest in the regulation of social media, as part of regulation of the digital media world, self-regulation appears to be in its embryonic and rather confusing stage in Slovakia. Concurrently, co-regulation, that should be represented by cooperation between RVR and Advertising Council, does not work; the Advertising Council does not deal with digital media.

In Hungary, Urban (2018) argues that there are limited instruments of media accountability. An effective system of self-regulation and a common code of ethics are yet to be adopted by the whole industry. A self-regulatory body, named “Korrektor”, established with numerous ambitions in ethical journalism in 2015 on the initiative of The Forum of Editors-in-chief in co-operation with the Hungarian Publishers’ Association (MLE) and the Association of Hungarian Content Providers (MTE), has made a couple of substantive decisions, even though these are mostly dismissals of some existing discrepancies. The Association of Hungarian Journalists (MÚOSZ), the Community of Hungarian Journalists (MÜK), the Association of Hungarian Content Providers (MTE), and the Self-regulatory Advertising Association (ÖRT), as independent self-regulatory bodies, also have their own code of ethics. Major online outlets are members of the MTE which issued a code of conduct in 2007 dealing with data protection, copyright, archiving policy and responsibility on the internet. The code on responsibility on the internet, requires online content producers to monitor and remove any textual and visual elements which are considered unlawful from their platform. However, the above mentioned associations are fragmented and this makes it difficult for them to enforce the needed regulatory controls - their members are journalists and not publishers. There is very little publicly available information about the effectiveness of these self-regulatory bodies, apart from the Advertising Association. Nevertheless, we can safely argue based on the aforementioned trends that at the moment, effective self-regulation is absent in the media industry of Hungary. Co-regulation, on the other hand, is permitted in media administration by the Hungarian media and interested professional organizations can assume media administrative duties following authorisation of the National Media and Info-communications Authority (NMHH) - there are four such co-regulatory bodies. Importantly, these co-regulatory bodies can investigate complaints that are related to selected violations which include: advertisements which violate human dignity or offend religious or ideological convictions; use of subliminal advertising techniques or subconscious perception; advertisements promoting tobacco products, weapons, ammunition, explosives, prescription medication; advertising content representing harmful or unfair influence to minors. Nevertheless, they can only act within the limited jurisdiction of printed and online press products, and on-demand media services. Moreover, Urban (2018: 110) claims that co-regulatory arrangements could be most aptly described as the outsourcing of official responsibilities, therefore, efficient enforcement mechanisms are not involved. The Media Council, which is a semi-autonomous part of NMHH, is obliged to review every decision rendered by the co-regulatory bodies and partly finances them. The NMHH and the co-regulatory bodies enter into an administrative contract which must be reviewed annually, and the NMHH passes certain regulatory powers to the body which in return submits to the code of conduct which is a mandatory extension of the contract. Subsequently, when the NMHH receives a complaint regarding those media which are part of the co-regulatory framework, it forwards it to the co-regulatory body. Applicants also have the right to appeal to the NMHH against the co-regulatory body’s decision. Unfortunately, the co-regulatory mechanism has been practically applied only in a handful of cases; there are less than ten cases annually and only a maximum of two, ends with a substantive decision. Meanwhile, the main areas covered by complaints received are the protection of minors, hate speech and personality rights.

In Poland, the Polish Chamber of Press Publishers, along with the two biggest professional journalism organisations, formulated their own codes of professional ethics and established internal disciplinary courts for their members. Media owners and other professional organisations adopted the Charter of Media Ethics and Journalistic Code of Conduct at a Conference of Polish Media, which appointed the advisory Council of Media Ethics in 2015. Subsequently, all these interventions have failed due to conflicts between journalist organisations and growing political divisions. Public broadcasters also formulated their own code of ethics, initiated by a Krajowa Rada Radiofonii i Telewizji (KRRiT) round table, to fight disinformation and hate speech, and promote best practices. The Commissions of Ethics have no sanctioning powers, but act as advisory bodies to the public TVP and PR radio boards. Generally, self-regulatory media accountability mechanisms do not work well, if at all, nation-wide in Poland. In Poland, co-regulation seems to be working better than self-regulation.

In summary, self-regulation of digital media does not seem to exist in Slovakia, except for advertising within the online sector, however, prospective arrangements have been put in place for the journalistic sector. Similarly, co-regulation does not work. In the Czech Republic, self-regulation of digital media is dysfunctional and co-regulation is demonstrable with formal signs of presence through two organisations co-operating with the media council. In Poland, self-regulation is negatively influenced by political and confessional divisional dynamics and cannot be seen as a meaningful regulatory solution for the press sector or digital media. Nevertheless, there are some sector-specific co-regulatory successes regarding co-operation with the Polish NRA (to be discussed next). The Hungarian case is more complicated with partial co-regulation and no self-regulation; co-regulation seems to work relatively well, dealing with only a few cases each year. Although, certain sectoral exceptions can be made, self regulation and co-regulation for the traditional press sector, with occasional focus on digital media encompassing social media, within V-4 countries are problematic, generally non-existent or dysfunctional.

We also observed hesitation or conditional attitudes towards delegating the general task of regulating content on social media to the media regulators (Table 1).

**Table 1: Should the Current Public Media Regulators Regulate the Content on SM?**

Country	CZ	HU	PL	SK
Position	No	Yes, but conditionally	Partly	Unclear

We also investigated expert opinions on the efficient regulatory frameworks to be adopted for social media, in response to the call for self-regulation or co-regulation among media regulators instead of reliance on an established media regulator. Our findings are provided in table 2.

**Table 2: What are efficient regulatory alternatives for social media?**

Country	CZ	HU	PL	SK
Position	self-regulation	co-regulation	self-regulation	co-regulation

Compiled by SCM (2019)

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