



Egypt's New Regulatory Media System: Challenges and Opportunities

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Introduction

On December 26, 2016, the Egyptian President ratified a new media law ¹, creating three new bodies that would regulate Egyptian print, broadcast and electronic media.

The new law, which was approved by parliament, introduces three main articles in the Egyptian Constitution: 211 (The establishment of the Supreme Council for Media Regulation), 212 (The National Council for Print Media), 213 (The National Council for Broadcast Media).

Following the January 25 and June 30 revolutions, there had been public demand for safeguarding the independence of the media by curbing direct and indirect government interference, and establishing a regulatory system for media outlets.

Current Status

Egyptian media faces challenges to its freedom, independence and pluralism resulting from deficient legislations (OSI, 2005). The lack of a regulatory framework that defines the functions of public and private media has led to pressure from government and/or advertising parties. In addition, the Egyptian national broadcasting system has not transitioned from being the mouthpiece of the government to a Public Service Broadcasting (PSB) system that is

grounded in public values and principles.

The Egyptian Radio and Television Union (ERTU), which oversees and monitors the government controlled media outlets (radio and television), used to work in affiliation with the Ministry of Information under Law 13 of 1979, last modified by Law 223 of 1989 (ERTU Files 2001). This law is now cancelled after the approval of the President of the Egyptian Republic to Law 92 for 2016.

The Egyptian radio broadcasting system is an absolute monopoly, operating under direct government supervision with a centralized model of broadcasting for radio and television, and with only three semi-private radio stations in the market on the FM spectrum (Nejoum 100.6 FM, Nile 104.2 FM, and Radio 9090 FM).

The terrestrial Egyptian television system operates under complete government supervision, leaving the private stations with only the Satellite platform from which to operate. Licenses are issued and frequencies are assigned through the General Authority for Investment (GAFI) which is affiliated to the Ministry of Investment, and therefore is still part of the government. The satellite channels usually enjoy more freedom than the terrestrial channels to criticize government decisions or policies. Ironically, these satellite channels, which are not monitored or governed by any charters or regulations, are the most favored platform by viewers (Amin, 2016).

¹ Law 92/2016: The Institutional Regulation of the Egyptian Media

Under the new law, the public and private media will be supervised by the Supreme Council for Media Regulation, thus allowing the state-owned media to be converted into a real public service broadcasting system, and enabling the private media to flourish within policies that guarantee fair competition.

Print media falls within the restructuring as well. Since the introduction of national newspapers, the government has exerted control over their shares, and the editors-in-chief of these national newspapers are appointed by the President through the Supreme Press Council.

The national papers are a kind of mouthpiece for the government, expressing its political policy, highlighting its activities, and delivering very little criticism for any of its flaws (Rugh 2004).

Opposition newspapers, such as Al Wafd and Al Shaab, have often criticized government policies or decisions. However, 2003 marked the launching of private independent newspapers that devoted more space to local news and daily issues of concern to the Egyptian citizens. In addition they raised the bar in terms of criticizing the government (Mekkawy, 2013). Still, they depend on the government for distribution and newsprint due to lack of financial resources (Amin, 2002).

The government maintains its control over the national print newspapers as a tool for propagating its agenda and for public mobilization (Mekkawy, 2014). Yet, the national newspapers are currently facing a fierce economic crisis and budget deficit. They mainly depend on the government for financial support that amounts to two billion Egyptian pounds a year to cover running costs and pay salaries (Eissa, 2016).

According to Salah Eissa, the Secretary

General of the Supreme Press Council, the new law stipulates the independence of the national newspapers and their non-subordination to the government, and the provision of its public mandate through the representation of different ideologies and opinions that serve the public interest. This will operate within the National Council for Print Media (NCPM) stated in the new law (Eissa, 2016).

Rationale for Regulation:

This law comes at time when Egypt needs to put in place independent regulatory frameworks to promote the growth of a strong, free and diverse broadcasting sector that serves the public interest.

After the January 25 revolution, there was a huge demand for the abolishment of the Ministry of Information and calls for a regulatory body or council to be in charge for restructuring the Egyptian media system.

The gap created by dismantling the Ministry of Information in 2014 and the delay in replacing it with a new regulatory body led to the launch of many private commercial television satellite channels with almost no control over the content displayed to the public. In turn, this lack of regulation, together with the emergence of many players in the scene, have led to a fierce competition over the advertisement pie and the display of content that violates most of the basic code of ethics: unfounded accusations, invasion of privacy, empty sensational content with the purpose of increasing viewer numbers and profit (Mekkawy, 2013). On the other hand, the Egyptian national media has lost some of its credibility, especially after the misleading coverage of the January 25 revolution. Although some attempts were made to provide a daily talk show that would compete with the private sector, most of these were not successful in regaining

the audiences or the popularity of the national television (Allam, 2012).

Egypt is classified as a transitional democracy (Rugh, 2004), and having a regulatory body means an actual transformation of the ERTU into a Public Service Broadcasting body which would be pressured to redefine its remit and operate independently from government or economic interests.

Having an independent media council is vital to ensure diversity in the broadcasting sector in terms of both plurality of ownership – encompassing all three tiers of broadcasting (public, commercial and community) – and plurality of voices in the broadcasting system as a whole.

Print media is also facing many challenges. On one hand, violations of the news code of conduct have started to appear in different forms: invasion of privacy, unfounded accusations, attributing most of the news to anonymous sources and providing unbalanced coverage among others (Mekkawy, 2014). On the other hand, there are demands for changing some laws that have been debatable for the past decade (Mekkawy, 2013).

Among the issues that will be laid on the table are the policies that give online journalists the right to join the syndicate due to the evolution of the online news websites in the information technology age (Eissa, 2016). It is important to note here that the Egyptian Parliament has approved, on December 20, 2016, a law to establish a Broadcast Syndicate that will cover the rights of those working at any terrestrial, satellite or electronic radio and television station.

Public Service Broadcasting:

Public service broadcasting usually faces an identity crisis as it carries the public service mission with its values and is required, at the same time, to compete with the private

channels in terms of ratings and/or professional management (OSI, 2005).

Public service broadcasting uses public money to respond to the interests of the public at large. They are typically established under the law, but they are non-partisan, and do not support any particular party or government, including the current one. A public service broadcasting system is not-for-profit, and is usually funded by the license fee that is paid by television viewers, and a small percentage by government grants. The common denominator between the public broadcasting systems in terms of funding is the lack of dependence on advertising.

This funding mechanism has allowed broadcasters to maintain the buffer between them and the government, thus increasing their independence in their daily work (although many of them still depend on government mechanisms to collect license fees).

UNESCO defines public service broadcasting system (PSB) as "a broadcasting that is financed mainly by the public and intended to be at its service. It is neither commercial nor state-owned, which is free from political interference and pressure from commercial forces. It has responsibility towards the citizens to educate, entertain and increase their awareness. Through guaranteeing pluralism, diversity programs, independence of the editor, appropriate funding, accountability and transparency, it is an actual public service broadcasting system which is a cornerstone of democracy" (IPDC, 2013).

The principles of public broadcasting systems that are widely accepted include providing universal accessibility (geographically), giving attention to minors, contributing to the sense of national identity and community, providing an open forum for debate; steering clear of entrenched interests; competing in the field of quality programs

instead of viewing numbers; setting guidelines that free software makers rather than tie them down.

The European public service broadcasters are entitled to a mandatory license fee to be paid by each television household. This is unlike the US broadcasting model, which is a fully commercial market dominated system, with a small fraction covering public service remits. The Corporation for the Public Broadcasting (CPB) was established to promote the growth of public radio and television and meet some instructional, education and cultural purposes. It is a non-profit organization that is funded by the Federal government, State and local governments, and it receives grants from private, corporate donors, colleges, universities and foundations.

Governments usually create public broadcasters through laws issued by the parliament – as the situation on hand in Egypt now – and although some of them are subject to public scrutiny by the state, most have strict guarantees of independence written into their constitutions. The Swedish public radio services (SV), for example, is removed from the state through its ownership of the institution, and through collecting license fees from the public, rather than through the government, yet they are subject to public scrutiny by a parliamentary committee as a mechanism of checks and balances (OSI, 2008).

In transitional democratic systems, there have been bold attempts to speed up the restoration and modernization of public services model, after the date of the control by the state. South Africa, since 1993, enjoys public broadcasting channels that are autonomous under the law, , and even at one stage, had its board members appointed after public hearings with

potential nominees (Robert, 2001).

Yet, other countries are still struggling to adapt to a true public service broadcasting system. In Latvia in 2011, for example, public broadcasting services continued to prioritize the interests of officials and elites over those of the public which results in a “paternalistic broadcast [that] tends to educate the public from above” (Ieva, 2011).

The public service broadcasting system is viewed in developed countries as a vital component of democracy and as a tool to raise the standards of private commercial television, which calls for clearly setting its remits to operate independently from political and economic pressures. However, this does not ensure that the conversion from a state-owned system to public service broadcasting will come smoothly or easily.

Policies and Challenges Foreseen:

According to the law, the Supreme Council for Media Regulation is to regulate audio, visual, print and digital media, and protect and safeguard the freedom of media within a competitive framework. This council is to set the criteria and professional codes that control the performance of the media and the advertising sector in coordination with the syndicates concerned. The council is responsible also for receiving and examining public complaints regarding any medium that would violate the code of ethics and is entitled to take the required actions through imposing different levels of sanctions.

The conversion of the ERTU into a public service broadcasting should be guaranteed through a set of policies such as: an independent board representing the public; accountability to the legislature rather than government; clear terms of reference for the board which are set out in law; transparent mechanisms for appointing members of the board

that are neither controlled by government nor a political party; and a clear public service mandate.

The parliament should set policies to guarantee that the ERTU is converted into a public service broadcaster and is politically independent from the influence and control of the government.

Policies should ensure that the ERTU board members are appointed based on their professional expertise and qualifications, and clear rules on conflict of interest are to be set.

Regulating the concentration level for the private media is quite significant as the undue concentration of media ownership may lead to the creation of monopolies or duopolies which lessens media diversification. High concentration examples are seen in many western European countries such as France that struggles between attaining pluralism and the creation of French media conglomerates to compete internationally. Another example is found in Italy where the former Prime Minister Silvio Berlusconi owns the three national commercial television channels in the country. Large commercial organizations should endeavor to uphold the same standards of journalism as public service broadcasters as a matter of fairness and balance. Cross media ownership between television, radio and print is of concern as well in many countries. It is more socially desirable and beneficial to have a diversified than a concentrated media environment (OSI, 2008).

Studies suggest that in countries in transition, as is the case with Egypt, the structures of the regulatory bodies are usually well defined, however, the implementation process could be faulty.

Surveying many countries that have implemented regulatory frameworks for their

media systems reveal some important factors that must be taken into consideration while implementing the Egyptian model.

As mentioned above, one of the main mechanisms that ensure independence is the method of appointing and terminating council memberships. Many countries in transition experienced government attempts to fire members of the regulating council body. In other countries, when the appointment of the council members is the duty of one body, this highly affected the political independence of the regulator. Having no affiliation to a political party is also one of the factors that should be considered. Civil society is a key element in the nomination process, as are the professional associations (IPDC, 2013).

Policies that deal with the separation of responsibilities between the regulatory bodies usually come at the forefront. Disputes often arose before between the National Telecommunication Regulatory Authority (NTRA) and the ERTU on assigning frequencies to the different satellite channels. Different models exist across countries, but the most common one is that the main national broadcasting regulator is responsible for licensing and monitoring the broadcasting activities, other regulators complement the technical part and their roles are limited to coordinating the allocation and the use of frequencies with the broadcasting regulators.

The same goes for the print media where many laws are to be revisited especially the ones that were issued 80 years ago, such as the Publication law enacted in 1936, and the Penal Code in 1937, among others (Mekkawy, 2013). At a later stage, the NCPM is to revisit the laws that directly and indirectly deal with freedom of expression and of the press.

It is important to mention that there is no single approach or model to follow to

guarantee an independent regulatory system, as any system is deeply affected by the political, cultural and journalistic traditions in the society. The goal for the media policy makers, regulators and media professionals is to capitalize on the change taking place. The Egyptian regulatory bodies should be given the support necessary to ensure their independence and have enough resources and power to effectively monitor the performance of the different players in the market.

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