

Insufficiency of external pluralism in México*

Insuficiencia de pluralismo externo en México*

A insuficiência de pluralismo externo no México

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Abstract

Freedom of information is essential to guarantee the right of people to be informed and to have equal access to various sources of information. Such freedom enables the citizen to have raw materials at hand to create his own opinions and start the debate process. From this freedom emanates the right and duty to inform both of the professionals of information and of the media; which, in a democratic state, should be available and accessible, since they are crucial to the process of formation of public opinion, to have the possibility to enhance, inhibit, create, and dissolve social demands, and to foster or affect democracy.

Key words: Freedom of information, Media, Communication responsibility, Public opinion, Self-regulation of information.

Resumen

Las libertades de información son fundamentales para garantizar el derecho personal y social a estar informado y a disfrutar en igualdad de oportunidades del acceso a diversas fuentes de información. Estas libertades posibilitan al ciudadano para disponer de materia prima para crearse propias opiniones e iniciar el proceso de debate. De estas libertades emana el derecho y la obligación de informar tanto de los profesionales de la información como de los medios de comunicación; los cuales, en un estado democrático deben ser suficientes y estar disponibles y accesibles, puesto que son determinantes en el proceso de formación de la opinión pública, por tener la posibilidad de realzar, inhibir, crear o diluir demandas sociales y favorecer o afectar la democracia.

Palabras clave: Libertades informativas, Medios de comunicación, Responsabilidad comunicativa, Opinión pública, Autorregulación y Autocontrol informativo.

Resumo

A liberdade de informação é essencial para garantir o direito pessoal e social de ser informado e gozar de igualdade de oportunidade de acesso a várias fontes de informação. Estas liberdades possibilitam aos cidadãos a disponibilidade de matéria-prima para criar suas próprias opiniões e iniciar o processo do debate. Destas liberdades emana o direito e a obrigação de informar tanto por parte dos profissionais da informação como dos meios de comunicação; que, em um Estado democrático, devem ser suficientes e estar disponíveis e acessíveis, uma vez que são cruciais no processo de formação da opinião pública, para ter a capacidade de melhorar, inibir, criar ou diluir as demandas sociais e promover ou afetar a democracia.

Palavras-chave: Liberdade de informação, Mídia, Responsabilidade comunicação, Opinião pública, A auto-regulação e de Auto informação.

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Introduction

From the perspective of the right to information and based on Spanish and Mexican doctrine, a conceptualization of information freedoms is constructed and the insufficiency of external pluralism and the communicative responsibility derived from the qualified subjects and the linkage maintained by these with the communication and with the public opinion that is generated through the means. The right to information is one of the pillars of the information activity, in which the message must be truthful, verifiable and plural, guaranteeing the existence of a free public opinion, fundamental in any country for the operation of the system democratic.

It should be mentioned that it was decided to analyze the doctrine referring to the media of Spain because it is primarily a country of the European Union that has had in the historical roots of Mexico a great influence that is social, cultural and juridical. Another reason is that Spain has been considered a country where pluralism is promoted in the media, where some of its Autonomous Communities¹ own the State Council of Audiovisual Media provided for in the General Law of Audiovisual Communication (2010) with a restricted territorial area although its means are characterized by having a high percentage of its own produc-

tion, together with the fact that the framework of civil liberties enshrined in the Spanish Constitution constitutes the necessary reference for a fully democratic society, in which the journalists undertake to maintain ethical and deontological principles in the exercise of their profession.

In that sense, the Spanish communicators who are members of the “Federation of Journalists’ Associations” of the Arbitration, Complaints and Deontology Commission of Journalism have a Code of Ethics which promulgates that in order to guarantee the necessary independence and equity in the performance, the journalists must demand for themselves and for those who work under them the duty and the right to oppose any obvious attempt at an informational monopoly or oligopoly that could impede social and political pluralism. They also have the duty and the right to participate in the journalistic enterprise in which they work, so that their freedom of information is guaranteed in a manner compatible with the rights of the information medium in which it is expressed (1993, para. III on Principles of action).

In addition, the General Audiovisual Communication Law acts as the primary regulatory framework for the Spanish television and radio sector, which includes community non-profit media and forms of organization and perfor-

1 E.g. Catalonia and Andalusia.

mance for companies in relation to the State, which contributes to make the diversity of alternative means of communication a reality.

It is prudent to point out the state of the art, which includes both Spanish and Mexican researchers, including Pilar Cousido González, who deals with the information freedoms as well as with the right to communication. Alfonso Nieto and Francisco Iglesias, contribute with a doctrine in relation to the informative and journalistic enterprise. Mexican researchers include Socorro Apreza Salgado, Clara Luz Álvarez and Wilma Arellano Toledo, authors who make important contributions about the influence of the media within the society and its impact on democracy.

Regarding the state of the matter, it can be noted that, according to various studies of international organizations, including the United Nations Organization (UN) and the Comisión Interamericana de Derechos Humanos (CIDH), affirm that in Mexico, the vigour, the diversity and the pluralism in the democratic debate are severely limited because the government does not adopt a regulatory framework that offers legal certainty, it promotes the deconcentration of television and it contributes to generate a pluralistic media space accessible to all sectors of the population². Likewise, in-

² UN Bulletin, Communiqué No. 11/30 and Press Release CGCP / 219/10: "Urges the Mexican State to promote

formation freedoms may be restricted without the direct intervention of the State, by the existence of monopolies or oligopolies owned by the media, impeding the communication and circulation of ideas³.

Therefore, it is fundamental that an awareness be established both in qualified subjects and in media companies on their responsibility to society in general and this contributes to the generation of quality information, plural and accessible to all sectors. The aim is, therefore, to emphasize the importance of society in constant search for pluralism in the media and thus be able to participate socially in a critical, analytical and purposeful manner regarding the various contents and opinions.

I. Information freedoms and access to media

Freedom of information includes the ability to express, communicate or transmit any mental representation by any means⁴, as well as the

fundamental changes that require the exercise of freedom of expression", Meeting of the rapporteur with the national ombudsman, National Commission of Rights Human Rights Mexico, August 24, 2010.

³ CIDH, Relatoria Especial para la Libertad de Expresión. Inter-American legal framework on the right to freedom of expression, OEA/Ser.L /V/II IACHR/RELE/INF/2/09. Consulted: December 30, 2009, pp.8-9: <http://www.Cidh.org/pdf%20files/Marco%20Juridico%20Interamericano%20estandares.pdf> Secretaría de Gobernación. Installation of the Consultative Committee for the Implementation of Prevention and Protection Actions for Journalists, Bulletin no. 602, Mexico, December 3, 2010.

⁴ American Convention on Human Rights, subscribed at the Inter-American Specialized Conference on Human Rights, (B-32) November 22, 1969, OAS General Secretariat, Series No. 36, 27/79 No. 17955.

right to search, receive and share information and ideas of any type, regardless of frontiers and through any procedure⁵. These guarantees are enshrined in Article 19 of the Universal Declaration of Human Rights (UDHR), 19 of the International Covenant on Civil and Political Rights (ICCPR), 13 of the American Convention on Human Rights (ACHR), and 6 and 7 of the Constitución Política de Los Estados Unidos Mexicanos (CPEUM).

Therefore, it can be understood that the exercise of freedom of expression, of thought, of writing and of opinion⁶; that every person has the “right to free access to plural and timely information”, as well as to seek, receive and share information and ideas by any means of expression⁷. Likewise, the State’s obligation consists in guaranteeing the right to access to information and communication technologies, as well as for the services of broadcasting and telecommunications, including broadband and

the internet. But in order to make them a reality, the State itself must establish conditions of effective competition for the provision of such services⁸. Consequently, it is the State’s responsibility to provide equal opportunities, as well as to protect and respect the freedoms of expression, opinion and communication to promote a Democratic State (Apreza, 2012, p.4.). Therefore, the State must ensure that the freedoms of receiving, producing and sharing information through the commercial or governmental media are adequately deployed (Gómez, 2013, pp.279-285).

Information freedoms are linked to pluralism, in this sense, Fernández (2002, p.154) affirms that informative pluralism constitutes “... the result of the set of media or information companies existing and independent of each other”, on the other hand, doctrinally Coussido (2001, pp.18-20) stipulates that freedom to share emanates the duty to inform, and in turn, freedom of reception, the right to be informed is revealed. Consequently, it can be conceived that information pluralism lies in the freedom of expression and materializes when society has the possibility of obtaining and offering various information and opinions (Sartori, 1998).

5 International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by the General Assembly in its resolution 2200 A (XXI), 16 December 1966: <http://www2.ohchr.org/english/law/ccpr.htm>. Consulted on June 20, 2012.

6 These freedoms are not absolute, they entail as a necessary measure the responsibilities of a democratic society around national security and defense, the national and public order, the protection of health, moral and reputation, as well as the rights of others, in order to prevent the disclosure of confidential information. Article 10 of the European Convention creating Article 4, which guarantees freedom of expression and information and reception, without opposition to retransmission in the territory; European Convention on Transfrontier Television, 5 May 1989, BOE, no. 96, April 22, 1998.

7 Mexico, Constitución Política de los Estados Unidos Mexicanos, Last reform published DOF 30-11-2012, <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>. Consulted in January 2015.

8 There is harmony with Article 7 of the law itself, which envisages freedom of expression and distinguishes it as the right to satisfy the need to express and receive ideas and opinions by any means.

This informative pluralism can be understood from the democratic-procedural sphere, as the possibility of the existence of the greatest number and diversity of opinions and information that lead to a process of free formation of public opinion; and the possibility that this variety reaches the greatest number of people (Rojas, 2009, p.184). Simultaneously, these freedoms emanate the right and the obligation to inform that exercise the professionals of the information and the means of communication; since these are decisive elements for the public communication and for the formation of the public opinion. Therefore, information freedoms are fundamental to guarantee the right to be informed and to enjoy, on an equal basis, an active participation in social transformations (Rodríguez, 2010, p.62).

With the above-mentioned freedoms and with the pluralism it is directly related the access to the media, of which Pérez (2010, p.52) affirms that access to the media:

It implies the possibility that the right to information be exercised individually or collectively, in order to show diverse content, to stimulate public discussion on matters of political and collective interest, to allow the expression of ideas and interests of significant social groups, to promote the balance between diverse and opposing interests and as a trigger for origin, development and permanence of pluralism.

Based on these arguments, the right to be informed implies for the public to be able to access the media and to choose between exercising or refraining from taking decisions as citizens, and for information professionals, the power to exercise their freedom of expression and offer them the opportunity to enrich his political vision. That is to say, democratic participation.

It follows that the conception of the media market must be understood as a functional equivalent of pluralism⁹, which is manifested as a complex process in which the input and the output of information have guarantees of content. It is in this sense, as Bastida (2003, pp.273 and 274) points out, that the input must not only guarantee the quantitative supply of many opinions and information, but also the qualitative, present in the diversity of opinions and the sources of information, while in the output it is necessary to guarantee that every person is in a position to receive the information circulated in the market so that they can participate in conditions of equality in public affairs and access to positions in that field.

It is important to mention that audiovisual media in the European context, specifically

⁹ As can be seen, although the CPEUM refers superficially to the right to free access to plural and timely information, as well as to access to broadcasting and telecommunications services, Mexican law does not provide a specific concept of information pluralism, much less in order to guarantee it.

the European Convention on Human Rights (ECHR)¹⁰, considers freedom of expression, regardless of frontiers or interference by public authorities, and the European Charter of Fundamental Rights¹¹ emphasizes pluralism in the mass media, which particularly strengthens the right to plural information.

The Ley Española 11/1991, of Organización y Control de las Emisoras Municipales de Radiodifusión Sonora (LOCEMRS), states that it is the duty of the State to provide citizens with local and radial means of communication which broaden the framework of informative plurality¹². Whereas the law 10/1988 of Televisión Privada (LTP) indicates that the purpose of television as a public service must be, above all, to satisfy the interest of citizens, to contribute to a pluralism of information, the formation of free public opinion and the extension of culture¹³.

In this sense, the Constitución Española (CE), Article 81.1¹⁴, states that what affects the

exercise of fundamental rights and public freedoms must be the subject of an organic law; in this way, it establishes that the media have “the duty to inform, in order to offer a public service and be at the service of freedom of expression”.

According to Bastida (2003, pp.273 and 274), the essence of Democracy lies in the principle of respect for minorities; democracy is based on human, political, social and cultural biodiversity, so the concept and guarantee of pluralism must be articulated under this consideration. Therefore, the existence of pluralism in the media serves as a guarantee for other freedoms, such as those of conscience, worship, association and freedom, that help to the political development of any country.

II. Media and public opinion

Although the media do not determine what to think, they undoubtedly influence about what issues do so through the use of journalistic resources, such as the size of the holders; the space destined to the information and opinions; their duration or extension and the protagonists that they present. Thus, in the media, the process of formation of public opinion is generated in a decisive way, since, as primary sources of images, they convey to the public clues about the relevance given to different themes and express them through psychological and which can enhance or inhibit media influence and public communication (Micó, 2013, pp.263-264).

10 Resolution of 5 April 1999, General Technical Secretariat, which makes public the texts of the Convention for the Protection of Fundamental Rights and Freedoms, Rome, 4 November 1950; Strasbourg, 28 April 1983; BOE, núm. 108, 06 May 1999.

11 Charter of Fundamental Rights of the EU (2010 / C 83/02); D.O.U.E., March 30, 2010, p.83.

12 Law 11/1991 on the organization and control of municipal radio broadcasting stations, of April 8, 1991 (Spain, Boletín Oficial del Estado -BOE-), no. 85, 9 April 1991.

13 Preamble to Law 10/1988 on Private Television, May 3, 1988 (Spain, Boletín Oficial del Estado - BOE), no. 108, 5 May 1988, p.4.

14 Constitución Española of 1978, published in the BOE, no. 311, of December 29, 1978: <http://www.congreso.es/consti/constitution/index/index.htm>, p.19.

It can be argued that public communication is “the one dealing with public affairs, over which organizations have no decision-making autonomy and from being proper to becoming common” (Elizalde, 2009, pp.29-30). This public communication is generally linked to the field of communication and the communicative process (Dahlgreen, 1995, p.9). On the other hand, the public sphere¹⁵, is presented as belonging to a society, and in the discursive, institutional and geographical sphere, in which people exercise their citizen’s right to access to dialogue on those matters affecting their communities (Bas, 2013, pp.381-384).

Public and social communication is based on the freedom of the citizen to receive information and on the freedom of the media to share it. In a Democratic State, both must prevail through their exercise and the means must be available and accessible to generate the necessary basis for the debate (Abel, 2002).

Because of that, the public communication lay the foundation of Democracy, not considering the citizen in a receptive and uncritical attitude to the messages of power, but, on the contrary, by endowing it with competence for the circulation of meanings, it enables society to recognize and process its collective agenda.

¹⁵ The representative public sphere comprises the set of communicative processes with a willingness to participate and to influence the debates about the common.

If Democracy is based on the possibility that a pluralistic debate can be present in the public opinion from which political decisions can be made, as well as, in producing and distributing information, the debate will be deployed with the media and will conform the judgment with which society will articulate its political participation, placing the media at the center of the democratic system (Bastida, 2002). In this context, Sánchez (1997, p.228) asserts:

The media describe the reality that is capable of political action, they provide the keys to the interpretation of that reality, contribute decisively to setting the political agenda, controlling and prosecuting political actors, they mobilize or restrain social commitment, creating, channeling or diluting social demands and promoting or deactivating citizen participation.

Therefore, Democracy and the essential public sphere are configured by the media, since through them the transmission and exchange of information can break through the space-time barriers. Zamora (2004, p.27) mentions that:

The ability of the media system to create demands, to induce behaviors, to convey ideologies, to define reality, to establish a hierarchy of social priorities or to give meaning to collective decisions, has made them the

powerful creator and reproducer of the symbolic universe of societies. The media companies have the capacity to turn any public or private issue into a public matter, and also to determine public opinion.

The law 17/2006 on Radio y Televisión de Titularidad Estatal¹⁶ (LERTVTE) refers to Article 20 of the Constitución Española (CE); these regulations guarantee the values of pluralism, truthfulness, and accessibility that contribute to the formation of an informed public opinion. These precepts establish that the activity of publicly owned media must be governed by a service criterion, must define its organization, its financing, its controls and contents of its broadcasts, as well as the guarantees to the right of access. This law distinguishes, therefore, the basic principles of radio and television: “public ownership, the guarantee of their independence and the character of public service” (Bas, 2013, p.389).

For the reasons before mentioned and according to the principle of a pluralistic public opinion, the existence of this public communication must be demanded; if the public opinion were determined only by some means of communication, it would be organized according to the laws of the market, as if it were a

merchandise, disappearing the understanding and the public utility. Regarding public opinion, Zamora (2004, pp.23-24) considers that:

Public opinion is the bridge that joins the legal order and reason, it must be universal and encompass all citizens, consists of a public and participative debate and it must serve to control power and its institutions ... public opinion is a fundamental part of the process of discussion and guarantee the reasonableness of the result. The autonomous capacity of individuals to reason and argue, as well as the public nature of the debate, appear in the eyes of the enlightened as the necessary and sufficient conditions for the establishment of truly universal interest.

It is transcendental then that it is recognized that it is through social communication as the organization and control of media dependent on the State or any other entity must be regulated to guarantee the access of significant social and political groups to those media (Sánchez, 2004, p.48).

The normative debate and the public service applied to the media system must be, on the one hand, confrontation and complementarity in the generation of public opinion. On the other hand, they must also respect the pluralism of society and consider the freedom of the information enterprise as the faculty of

¹⁶ Spain. Law 17/2006, of 5 of June, of the radio and the television of state ownership, BOE, núm. 134, dated June 06, 2006.

the free economic initiative. This enables any individual, no doubt, to carry out the organizing activity of the means of production that he deems appropriate to satisfy the needs of the market¹⁷. The sense of the media, therefore, lies in the responsibility for the production of the “social good” that is the “information”, given the influence it exerts on the behaviors and attitudes of the recipients, and on the capacity to understand themselves and participate in public life (García, 2011, pp.199-201). Therefore, the public service of the media becomes the contribution that these contribute by offering information open to public debate and decision making, which postulate as a defense of collective interests.

Sánchez (2002, pp.129-162), points out that the “media pluralism” and “pluralism in the media” are necessary for the information dynamic; this is because this dynamic should not only be characterized by the creation of means of dissemination, but also by the liberalization of the information market, through the entry of new bidders and the diversity existing between them, three aspects that are of great importance. Information pluralism can thus consist of the effect of diversity and proliferation of media, because the more information sources exist, the greater the choice of users and the

information consumers. Therefore, the media play a primary role in the information sphere because of the orientation as interpreted information, since the plurality of means makes it possible to create spaces to disseminate and contrast information.

However, Ferrán (2013, p.1) from the point of view of communication sciences, points out that what really determines information pluralism is the editorial content of the media, and not plurality in the number of communication companies, since pluralism applied to the media can limit the right to freedom of expression that is exercised through the creation of companies, because, in itself, the market cannot ensure pluralism of ideas.

It is undeniable that media companies are facing economic and technical difficulties, as well as the intervention of public authorities, which authorize or not their creation, and this, coupled with the fact that a strong capital investment is needed to create television media, transforming these media in companies of economic value, which, therefore, leads them to see the information they provide as a commodity (Pérez Pintor, 2010, p.53)¹⁸.

17 Article 38, Constitución Española of 1978, published in BOE, no. 311 of December 29, 1978, available at: <http://www.congreso.es/consti/constitucion/indice/index. Htm>

18 Indicates other restrictions facing the power to access the media, since they constitute a serious obstacle, since they distort in practice the use of the term of the right to information, using it as a private property of the media. Information, being the antithesis of fundamental rights, the right to information in particular and access to the media in particular.

It is a substantial question of the existence of effective social communication that citizens are capable of building a public opinion aimed at the diversity of the media, and that both, the right to inform communication professionals and the right of citizens to be informed, are guaranteed by the State. In this way, quality and pluralism cannot be assured only by the freedom to create media, but must be ensured in their daily work also through the freedoms of expression and communication. For, associated with the aesthetic, technical and economic qualities is the ethical quality, which is equivalent to that diversity. For without cultural plurality it is not possible to conceive of a pluralistic and democratic means of communication.

III. The communicative responsibility of media in Mexico. Self-control and self-regulation

Given the importance of the media, they must assume, in generating public opinion and debate, a communicative responsibility that emanates from their own activity. Tuchman (1983, p.9) states that:

When it is accepted that the media agenda conditions the public agenda it is transferred to the process of journalistic selection a responsibility: to deal with what is relevant to society. The mediator has the responsibility to choose the topics of debate, to become the means that enables dialogue and the ba-

sis of democracy. If the media construct the framework in which citizens discuss public events, the quality of the civic debate necessarily depends on the information available.

In this sense, the CPEUM and the current normative framework on social communication authorize the state to grant the use of airspace to the media for commercial use. In order for Mexico to have available, accessible and plural means, the same law prohibits, in its Article 28, any monopolistic practice and the concentration in one or a few hands of articles or services of necessary consumption. It punishes those who try to avoid free competition or mutual competition in general to anything that constitutes an undue exclusive advantage in favor of one or more specific persons, to the detriment of the general public or to some social class¹⁹. The same article, in relation to concessions or permits, empowers the state to grant them to agencies and companies in the social or private sector in order to operate several strategic areas, including communication with the purpose of improving services considered as priorities for the national development, as is the case of the media.

However, regulatory legislation, in this case, the Federal Radio and Television Law (LFRyTV) does not consider social participa-

¹⁹ Reformed the designation by decree published in the DOF, on June 10, 2011.

tion, nor the exercise of citizens' rights²⁰, and although Mexico has been assigned and ratified international treaties and has committed itself to legislate to be incorporated in the regulations, this has not been carried out. As an example, the Pacto de San José de Costa Rica signed and ratified by the Mexican Government in 1981, states in its Article 2:

If the exercise of rights and freedoms is no longer guaranteed by legislative provisions, this agreement undertakes to adopt, in accordance with its constitutional procedures and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to such rights and freedoms²¹.

Despite this precept and the responsibility of the means of the population, by exploiting a national public good, the Mexican State has allowed these means to take advantage of commercial airspace and has forgotten the public service that should characterize these as their own. In this context, the Mexican legal framework must provide legal certainty and media through the supervision of the granting process and the endorsement of their concessions. It is

also necessary to encourage non-profit broadcasters to obtain the corresponding permits and encourage the independent production of forms of communication through a public fund, thus protecting audiences by guaranteeing them a plural offer (Esteinau, 2004, p.41).

It should be mentioned that in Europe the Article 1 of Reglamento Comunitario de concentraciones No. 139/2004 (Rodríguez, 2007, p.3334) establishes an anti-monopoly and anti-oligopoly appeal, whose economic parameters detect the concentration of media²². With this resource, the concentrations are evaluated to determine whether they are compatible with the European Community (EC), and whether they satisfy the need to preserve and develop effective competition in the market, and the structure of all affected markets and the actual or potential competition of companies located inside or outside that Community²³.

20 Chamber of Deputies, LVII Legislature, The Right to Information in the Framework of State Reform in Mexico, Relevant Information on the Media, May 1998.

21 American Convention on Human Rights, signed at the Inter-American Specialized Conference on Human Rights held in San José, Costa Rica, 11/22/69. Effective as of 07/18/78, pursuant to Article 74.2, liability. UN Record: 08/27/79 No. 17955, Vol. 36.

22 For example, it looks at concentration with a community dimension, when the total worldwide turnover of all the companies concerned exceeds five billion euros and the total community-wide turnover achieved individually by at least two of the undertakings concerned by the concentration exceeds EUR 250 million, unless each undertaking concerned makes more than two-thirds of its total community turnover in the same member state.

23 The following factors of the concentrations are valued: their favorable position to the market; their economic and financial strength; the choice of suppliers and users; their access to sources of supply or to markets; the existence of legal or other barriers to access such markets; the evolution in supply and demand of the products of the undertakings concerned or of the services in question; the interests of intermediate and final consumers and their development in terms of technical or economic progress, provided that it is to the benefit of consumers and does not constitute an obstacle to competition. In this assessment, the Commission takes particular account of whether two or more parent undertakings are significantly active in the same market, such as the joint venture, whether it is an upstream or

This mechanism favors the preservation of free public communication, since without it there would be no free society or popular sovereignty (Farías, 1994, p.134). Similarly, the Comisión para la Libertad de Prensa, created in 1947, indicates the responsibility of the media, which is: to provide a complete, true and intelligible account of the events of the day, in a context that makes sense.

The media should serve, therefore, as a forum for the exchange of critiques and comments. As a way of expression that gives a representative image of the constituent groups of society and presents and clarifies the objectives and values of society (Ramos, 1998).

In Mexican legislation in this regard, it has been omitted to specify this communicative responsibility that the public institutions and private communication companies have; it has been dispensed with the fact that both types of organizations must include, as a basic element, the public good and the fundamental right of communication and information, so that no instance infringes them because it serves economic interests (Fernández, 2008, pp.359-360).

For its part, self-control is an internal de-

cision of the informant and is given by an organism in the institutional sense, chosen by himself; no one outside can impose it; it is supposed to safeguard the right use of the information, of the exercise of the right to the same to which the public is entitled; it moves in the field of ethical responsibility; strengthens the freedom of the journalist, who chooses one form or another of communication. In order for self-control to be possible, it must be born of the free feeling of the parts that compose and participate in the information process: informers, editors and public.

The foundation of self-control is the need for each subject involved in the information process to have in its power an element of ethical surveillance of the activity in which the process is unfolded. This element in which the interests of the three subjects are included is the organ of self-control; through its establishment, all the subjective elements can demand and demand the ethical behavior demandable and establish the mechanisms of correction in the ethical field, which has repercussions in consequences.

The sense of purpose of self-control: it is an effective means to carry out the universalization of the right to information, it is a positive means of defending the public against possible abuses of information, it allows a lesser presence of the State in its regulation of greater

downstream market, or in a closely related closely related market; it is also assessed whether the direct coordination of the creation of the joint venture allows the companies concerned to eliminate competition with respect to a considerable part of the products and services concerned.

professional independence and suppose higher quality in the message. The fundamental objective of the systems of self-control is to elucidate the acts carried out in the information process that may be detrimental to the deontological principles that make up the information activity.

The journalistic profession and the other subjects involved in the information activity actively or passively try that its members work with appropriate approaches in the ethical field. Through the public objective, complaints are made before committees, bodies, institutions, where the opinion on the behavior of the requested professional is made public and their decision is made public through instruments of the body that has been established, stating that their disciplinary work is closed with the deliver of its verdict acquitting or condemning the action of the defendant in the ethical field. The sanction comes by the publication of an incorrect professional action that contradicts the professional performance and evidences the author in front of his informative work.

The communication companies intend to elaborate or spread information and entertainment messages. They can perform both tasks at the same time, build the product or service and make it available to the public. Other companies play an auxiliary role in the field of communication. Because they collaborate in

technical or logistical aspects but do not influence the final configuration of the offer: distributors, printers, cable network installers and the entire telecommunications sector (Nieto Iglesias, 2000, p.96).

Loeffler refers to self-control systems as:

Institutions created by and for the press, in which journalists and publishers, freely adopting decisions and being responsible only to their own conscience, cooperate in order to preserve the existence of balanced and loyal relations between the press on the one hand, and the State and society on the other, through the maintenance, within the press, of a high personal morality and the defense of freedom of the press on the outside.

While Hebarre defines it as “the organism that should allow the press, this very particular genre industry, to fill its own institutional function within a modern democratic society” (Loeffler & Hebarre, 1968). For Aznar the media have two features: the objective of promoting moral values and internal goods of communication, to provide ways to claim and demand that the activity conforms to these values and norms; and also share that both in its implementation and its operation and effectiveness are the result of free initiative and voluntary commitment of agents involved in

communication: (owners and managers of public and private communications companies, journalists and media professionals, and the general public). The specific purpose of the informational company should be to inform; if the company only has the purpose of obtaining profits, it is still a company, but it is not informative; as this type of company must concur with the subjects of the disclosure process of the bearer subject as an instrument of dissemination, of the qualified subject, professionally united to the business organization, and of the universal subject of information.

It is important to also consider the business information freedom in which economic freedom participates, of which the organization constitutes the material support and, in turn, guarantees the free use of the means to realize the freedoms of expression and information. If this freedom of business is not guaranteed, the concentration may occur, which will deteriorate the possibilities of pluralism in information. Consequently, this pluralism depends on both the legislation and the typology of the media companies and the type of integration²⁴

24 By geographic area in which the information is distributed, whether local, regional, national or international, which by the type of medium of the company can be the press, electronic press, both; the audiovisual or the multisectoral, depending on the relationship that the media have with the production process: vertical integration, horizontal, vertical and horizontal, and conglomerates; in accordance with the purpose of the owners of the company, which may be to obtain benefits, public service or ideological orientation; and finally, according to the type of property, be it public, private or mixed.

that they carry out (Farías García & Farías Batlle, 1994).

Vertical integration consists of the partial or total control that a company has to communicate on the channels of production and commercialization. This integration has two aspects: upward and downward: in the first one, the objective is the production, the control of income and the product; the broadcasters enter into the production, they develop techniques and buy programs, also using producers of physical support and distributors (Torres López & Zallo, 1991).

This strategy presupposes that a company occupies a dominant position in a variety of different businesses, but related to this type of integration. It requires for its survival a specialization or concentration of resources and management techniques, but it allows the independence of suppliers and distributors (Sánchez-Tabernero, 1993). The trends that apply to almost all countries with this type of integration are the public channels, which increase the acquisition of programs produced by independent companies.

Horizontal integration occurs when a company owns the same type of media in different markets: newspapers, magazines or broadcasters. It allows it to reach a high level of specialization to introduce in different markets a

product that has successfully managed in its original market. Companies that undertake horizontal integration tend to assume other types of integration, such as vertical, multimedia, or two modalities at the same time (Zallo, 1992, pp.109-115).

The *internationalization* of communication companies comes to be one of the strategies that faces less possibilities of reaching a dominant position, since the international expansion leads to the appearance of other alternatives, beyond the concentration in the flow of information, although as a negative result entails the possibility that the underdeveloped countries can thus lose their cultural identity. As for the *multisectoral integration*, that form is presented with the control of several media by a company, which requires the presence of cross-ownership between printed and audiovisual media (Sánchez-Taberner, 1993, p.72).

Once the scarcity of the frequency spectrum is overcome with the emergence of mass media such as satellite and cable television, new methods of management of communication companies contribute to increase the competition for providing services in the market, which has repercussions on information, cultural and entertainment contents. The main constraint on competition in the media is the volume of capital they require, which means that only large consortia have sufficient re-

sources to commit themselves to a high-risk investment (Sánchez-Taberner, 1993, p.72).

It should also be noted that some trends in the advertising industry undermine pluralism and the quality of the media system, as the progressive concentration of advertising intermediaries and new formulas in this field, such as bartering, product placement at the point of sale and teleshopping, weaken the barriers between production, programming and advertising. Likewise, the development of cross-promotion strategies occurs as a consequence of the emergence of multimedia groups. Other situations also generate media concentration. Examples include the deregulation of the audiovisual sector, as media mergers and acquisitions, for whatever reason, facilitate greater vertical and horizontal concentration (Becerra, 2000, pp.93-112). The one related to the influence of the advertising industry, which leads communication companies to develop strategies combining concentration, diversification and internationalization. The increase in advertising investment generates the creation of exclusive companies, and increases the turnover and benefits of communication groups that invest in the audiovisual sector.

Communication companies grow in size, credibility and economies of scale, which is caused by the acquisition and melting of media companies and it is faster due to the cre-

ation of new titles. However, growth through this path can be costlier, and its possibility is available only to the strongest business groups (Sánchez-Tabernero, 1993, pp.139-149). Associated with this, the increase in the number of merging occurs more in times of crisis, because if two competitors register negative levels of profitability, a merger tends to restrict the diversity of information, and in a free market society the companies that are not profitable do not survive.

While scale economies can be successfully obtained in production, raw material purchase, marketing, promotion and investment, this strategy explains the level of concentration of the press, the formation of radio networks and the internationalization of television companies, since in each sector two objectives are sought: to reduce costs and increase their income.

It can be affirmed, then, that the integration strategies must be carried out with economic criteria, through the search for scale economies, synergies, risk diversification and the profitability of capital; but, in turn, it must be adopted a model of growth that benefits the employees, and above all, the strategy most appropriate to the needs of society. This implies putting aside the predominant profit motive in companies and their loss of influence in the public sector, in the face of the strengthening

of private initiative, which favors a competitive environment and contributes to improving the administrative efficiency of companies.

If there is no balance between economic efficiency, the well-being of the workforce and the quality of the product, communication companies can grow rapidly, but this supposes the demotivation of the employees and the loss of prestige before society, as a consequence of weakening the informative duty (García Canclini, 2001).

Deregulation of the industry has provoked new forms of concentration, especially between the ownership of print and audiovisual media. There are two more criteria for determining concentration: first, the number of products available in each market; and second, the percentage share in the market achieved by the leading company, or by the first two, in each branch of communication. Through this procedure can be measured the variety of information available and the possibility of unfair competition practices, which would be a consequence of the possible abuse of dominant positions in certain markets (Sánchez-Tabernero, 1993, p.24).

IV. Conclusions

It could be considered that the low diversity of media causes opacity, makes it impossible for the citizen to have diverse opinions; block

the exercise of the capacity for analysis and criticism of the underlying reality in the country; it affects culture; diminishes the democracy; weakens freedom of expression; creates biased expressions; maintains little informed to a society, and, in turn, affects a restricted participation, which causes as a result that the social interests are diminished in the public agenda of the authorities.

When there are not the right conditions for the multiplication and opening of the media, or when these do not fulfil the communicative responsibilities, it is generated a concentration in the information market. The main objective of the informative company should be to inform, but when the company just seeks to obtain certain benefits, it will be just a company, not an informative one because in informative companies should have the freedoms related to the informative process: of the subject as an instrument of diffusion, of the subject professionally qualified to the business company, and of the universal subject of the information.

In this sense, a pending task of the Mexican state is to guarantee the independence, neutrality and objectivity of the media; to establish organizational structures and a financing model that allow the communication process to be an effective public service of quality and social recognition. As well as to be regulatory institutions and supervisors of the fulfillment of

communicative responsibility, which are therefore indispensable, since they can contribute to lower concentrations and eliminate the media or democratic deficit.

The media must also, by law, be in accordance with the principles of proportionality and transparency in the management of the radio and television service, to reconcile social profitability with broad audiences informed through its programming, in view of its social, educational and integrating purposes. While it is true that there are laws and regulations that consider some information freedoms, their protection lags behind the use of international standards and not internal rules, as these are overtaken by social reality. In this way, it is necessary to propose, but it is fundamental to put into operation measures that guarantee access to the media in a plural manner and that journalists and communicators defend and exercise their ideological freedom. It is also important that media entrepreneurs accept that within their own media there is diversity and they definitely believe that it is an advantage for information.

Undoubtedly, the communicative responsibility of the media can also be attributed to agents, industry-producing owners and recipients; all must ensure that the processes, formats and contents of communicative-media products avoid incurring inconsistencies or

distorting reality. Agents must build formats and content so that recipients can count on a critical social interpretation, and recipients should consider themselves as the main element of the communicative process that professionals and media owners need. That is, the universal subjects of information must participate in the media, not be influenced by the dominant opinion but have the capacity for judgment and express it through any means, with participation in radio, web pages or social networks.

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