

# Italy's new media law tailor-made for Berlusconi

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In the face of antitrust rulings, protests by Italian media organizations and an appeal by the head of state to safeguard pluralism in the media, the government of Prime Minister Silvio Berlusconi is set to finalize the "Gasparri Law," a set of rules championed by neo-fascist minister of communications, Maurizio Gasparri.

The measures cover everything from the percent of media that can be concentrated in the hands of one person to the reorganization and privatization of RAI, the state-owned network of television and radio stations.

In sum, the law virtually guarantees Berlusconi's dominance in the communications sector and makes a joke of the idea of a free press. As for the opposition, they have once again shown themselves incapable of providing leadership for the millions who oppose the government's attacks on basic democratic rights.

While his right-wing "House of Freedoms" coalition government is pursuing a number of goals with this legislation, Berlusconi is first and foremost seeking to extend his already gargantuan media empire. At present, his annual advertising revenue in the television sector totals over 4 billion euros, which exceeds the legal limit set down by a 1997 law.

The law placed a ceiling of 30 percent on the amount of the overall media "pie" any one individual could control. As a result of Berlusconi's repeated violations, a 2002 Constitutional Court ruling gave his broadcast wing until December 31, 2003 to divest itself of one channel or transform it from cable into a satellite broadcaster.

This is not the only area in which Berlusconi is in violation of antitrust standards. According to a 1990 law, anyone who owns three or more national television channels is forbidden from also owning a major stake in the print media. Berlusconi partially got around this limit by placing his brother in nominal control of *Il Giornale*. However, his acquisition of Mondadori publishing post-dates this law by several years (details of this purchase are the focus of ongoing bribery investigations).

The new law renders the previous limits toothless and circumvents the antitrust rulings. Gasparri does this in two ways. First, he redefines what the government means by the "media," so that it includes not only those areas in which Berlusconi has the lion's share, but also some which he has no

desire to enter. The end result is to produce the appearance that the "pie" is more evenly divided than it would seem were only television considered. Second, the language of the Gasparri law would remove the barrier between television and newsprint ownership that was set down in the 1990 law.

Gasparri's *Sistema Integrato delle Comunicazioni* (SIC), or Integrated Communication System (which at least one commentator has alternately titled the "*Sistema per Ingannare Chiunque*," "The System That Can Cheat Anyone"), introduces a new accounting method that considerably expands the universe of revenues considered under the anti-trust regulations. Thus, it adds a host of new categories to the 1997 law, which covered only television commercial revenues, and, in the case of RAI, the annual fee that all Italians are charged for access to the television and radio stations. The new law lumps in revenue generated by radio advertising, satellite broadcast access fees, movie theaters ticket sales, daily papers, periodicals, school books, telephone books, etc. This has the advantage of increasing the size of the "pie" from 12 to about 32 billion euros, making Berlusconi's share of the holdings proportionately more modest.

In addition to redefining the universe of revenue gathering, the new law also differentiates between commercials and on-air promotions by television personalities, for example, during variety shows. As anyone who has seen them can attest, these are no different in content from pre-taped commercials, and the communications minister's distinction between the two is spurious.

Gasparri proudly claims that the new law actually promotes economic democracy in the media, because the law reduces the ceiling for each individual from 30 to 20 percent. Not surprisingly, however, because of the wider scope of the SIC, Berlusconi can now increase his own holdings so as to allow for additional revenue of 750 million euros per annum.

The increase will surely come about in the print medium; in line with the new law, several commentators project that by the end of 2008 Berlusconi could purchase the *Corriere della Sera*, one of the two truly national newspapers in Italy.

The government is also immensely proud of the new law's steps to "save" RAI, Italian public television. First, Gasparri argues that in changing the accounting method he has also

saved RAI 3, which, in consequence of RAI exceeding its share of the revenue “pie” from 1998 to 2000, was ordered by the antitrust authority to stop selling advertising, which would forced it to subsist on the annual fee and transfers from the other two RAI stations.

Lest anyone think that the government is giving aid to RAI 3, home to the last remnants of opposition in Italian state television, and the only channel whose news coverage has dared to criticize the Berlusconi regime, one need only note that another part of the Gasparri Law is the privatization of RAI. This, the minister argues, “Will open RAI to the logic of the market, which will be a great transformation toward freedom from political control.”

As this is currently laid out, the privatization would proceed along the lines of a public-private holding company, in which no investor would be able to control more than 1 percent of the stock. However, there is little doubt that Berlusconi is aiming to eventually gain financial control over the concern and do away with the less profitable and politically troublesome pieces.

Central to the preparations for the sale of RAI is the reorganization of its leadership. The network’s administrative council, whose membership has already been reappointed due to the resignations of the center-left and centrist-Christian Democratic members in late 2002, has been extremely vocal in its criticisms of the new law. The council president, Lucia Annunziata, has already announced she will resign as soon as the new provisions are signed into law, which will likely occur in September.

In order to engineer an ironclad majority, the Gasparri Law envisions a new structure for the administrative council. Currently the council is made up of five members (three from the governing bloc and two from the opposition). The new council would be made up of nine members, seven of whom would be chosen on a proportional basis, with two additional members selected by the treasury secretary—currently Berlusconi’s right-hand man from Forza Italia, Giulio Tremonti. Of the secretary’s selections, one would be chosen as president of the council. After privatization, this process would give way to a board of directors model selected by shareholders.

All final votes would be on the basis of a two-thirds majority. In other words, the treasury secretary’s two picks plus the four members selected from “House of Freedoms” council members would give the center-right a built-in six-three advantage.

The new council would be selected to a three-year stint beginning February 28, 2004. Not surprisingly, Gasparri’s assurances that Annunziata and company could be reselected for the new council have not produced jubilation.

Over the course of the last 10 months, during which the government has attempted to sell the new provisions as something other than the latest law tailor-made for Silvio Berlusconi, numerous individuals and groups have voiced their opposition.

The Italian Federation of Editors of Periodicals (FIEG) wrote an open letter to Gasparri complaining that, while Article 21 of the Italian constitution guarantees freedom of the press and of information, the “House of Freedoms” government is instead working to further restrict access to the media through concentration of ownership.

There is a similar revulsion among scholars. Alessandro Pace, constitutional law professor at the University of Rome, called the new provisions a “mockery of both the antitrust commission’s rulings and President Carlo Azeglio Ciampi’s 2002 appeal to safeguard pluralism in the media.”

Even the European corporate press, including the *Financial Times* and the *Economist*, has of late written lengthy criticisms of Berlusconi. There is clearly a fear that his brazen disregard for basic democratic principles will at some point produce an energetic reaction from working people.

Among the general population there has been widespread opposition to the new law, to which the official opposition has responded by staging its typical show of resistance. In the weeks leading up to the final vote in the Senate, which occurred in late July, the opposition carried out a few parliamentary maneuvers in order to stall the vote, including vacating the hall and proposing hundreds of amendments.

However, the current leadership of the opposition is not prepared to go beyond the occasional afternoon speech in the piazza. Now that the measures are ready for a final vote, with virtually all of the House of Freedoms members in line behind the law and victory assured, the Olive Tree members, along with Communist Refoundation and the Greens, have folded up and moved on to the next issue for which the “House of Freedoms” is sharpening its knives: pension “reform.”

The opposition’s eagerness to appear fiscally responsible (in the run-up to next year’s European parliamentary elections) is preparing the way for them to be steamrolled on this issue as well. In a phenomenon that has been repeated throughout the world, the official opposition parties have shown themselves to be both incapable and unwilling to defend basic democratic principles.



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