

LAD CASE STUDY

Public Broadcasting in Ukraine: What Does it Take to Break Decades of Inertia and an Avalanche of Resistance?

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The Leadership Academy for Development (LAD) trains government officials and business leaders from developing countries to help the private sector be a constructive force for economic growth and development. It teaches carefully selected participants how to be effective reform leaders, promoting sound public policies in complex and contentious settings. LAD is a project of the Center on Democracy, Development and the Rule of Law, part of Stanford University's Freeman Spogli Institute for International Studies, and is conducted in partnership with the Johns Hopkins School of Advanced International Studies.

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Introduction

March 25, 2014 was a sunny day in Kyiv. Zurab Alasania had just been appointed CEO of the National Television Company of Ukraine (NTCU). Glamorous as it may sound, the position was far from enviable. With the mandate to transform the sprawling maze of state-owned television and radio companies into a public service broadcaster, Alasania faced a formidable challenge.

Only a little over a month before, Ukraine was shocked by the violent culmination of the Revolution of Dignity when over 100 people, now called the Heavenly Hundred, were killed in an armed confrontation with the police. President Viktor Yanukovich fled the country amid public unrest, leaving the country in the hands of a newly-formed government that promised to eliminate corruption, bring Ukraine closer to the EU, and initiate liberal reforms. Since then, Ukraine has seen Russia annex the Crimean Peninsula and instigate separatist forces to take over regional governments in Donetsk and Lugansk in the east of the country. The previous administration had emptied the government's coffers, leaving the new cabinet and the acting president to deal with spiraling inflation and the daunting task of rebuilding Ukraine's crumbling armed forces. The interim government of Prime Minister Arseniy Yatsenyuk was in charge, and early presidential elections were scheduled for May 2014.

With rallying cries for reform and transparency, it was an auspicious time for civil society groups and progressive media to revisit the plan to create an independent public broadcasting company.

Media in Ukraine

Since breaking away from the Soviet Union 25 years ago, Ukraine has gone through massive changes – from a former republic of Soviet Union with a planned economy, no free media, and forcefully imposed Communist ideology to an independent state with a market economy and democratic institutions.

In the mid-1990s, the relics of the Soviet state-owned media quickly lost popularity to new outlets funded by oligarchs and former “red directors” (directors of large Soviet factories who became factory owners through rapid capital accumulation). They saw the mass media as a way to accumulate goodwill and promote their own agendas. The hyperinflation of the early 1990s and other factors stood in the way of normal development of the mass media markets. At the same time, governments at the national, regional and municipal levels, did not wish to lose the media outlets they owned, seeing them as propaganda vehicles. Even though a number of

Yaryna Klyuchkovska, Sophia Opatska, Andrew Rozhdestvensky and Igor Rozkladay conducted interviews and prepared this case under the supervision of Francis Fukuyama of Stanford University. This case was developed solely as a basis for class discussion. It is not intended to serve as a historical record, a source of primary data, or an illustration of effective or ineffective management.

relevant laws were adopted to de-nationalize the media, the process has been rather painful and is still not finished.

All this meant that true freedom of speech was difficult to achieve. While the government had neither funds nor motivation to promote quality public journalism, the privately owned media worked under even stronger pressure from their owners.

The oligarchs, who built their businesses through re-sale of Russian natural gas and oil products, for years enjoyed tax benefits when they sold their goods to Russia (for example, metal pipes). Not surprisingly, their media outlets, including Ukraine's largest TV channels, support pro-Russian views. Before the planned signing of the EU Association Agreement, for example, the oligarchs' mass media outlets tried to intimidate the audience with reports of "degenerate" "homosexual Europe" and predictions that eroding ties with Russia that would bring poverty to the Ukrainian nation.

While the owners saw their media mainly as channels for political influence, it was important to grow their audience. This led outlets to turn to gutter journalism and tabloidization. Most television channels focused on entertainment programs and even the political talk shows were designed to raise emotions rather than the quality of discourse.

Consequently, the new media owners used their print and broadcast outlets as a vehicle to promote their political agenda rather as independent business units. In addition, editors and journalists grew accustomed to a biased presentation of events, to the point that objectivity, fairness and other standards of journalism became abstract notions. TV channels earn their keep, at least, in part, from advertisements and crypto-advertisements (economic and political covertly commissioned advertisement from those who have views similar to those of the owner). As a result, only 8% of regional media publish some financial reporting, and only 19% published their editing principles and policies.

In the face of increasing political and economic pressure some media remained ostensibly independent and self-reliant – for example, the magazine Focus; yet. These were exceptions, not the rule. Other media outlets, such as Ukrainska Pravda and Hromadske.TV operated as non-profits and were funded primarily via local or foreign grants.

The History of Public Broadcasting in Ukraine

The idea of public broadcasting is based on historical and socio-political factors. For instance, in the post-Nazi Germany public broadcasting was seen as a tool to prevent the revival of Nazism.

The purpose of public broadcasters is to provide high-quality, unbiased news content relevant to different age and social groups, including ethnic minorities and children, as well as educational, cultural, scientific and popular programming.

In Europe, public broadcasting faces numerous challenges due to several global factors: a strong commercial market, which in some countries is not only business, but also an element of political influence, increasing Internet penetration and transition, especially among young audiences online. The decline in the quality of journalism and the reluctance of people to pay for public broadcasting in the presence of alternative free sources also play a role. Moreover, in a consumer society, the scales are tipped toward entertainment and the beautiful lie rather than the inconvenient truth.

Among the post-Soviet states other than the Baltics, Georgia has come the closest to creating a public service broadcaster. In Russia, the notion of public television has been largely discredited as Russian television has once again become the mouthpiece of the Kremlin propaganda machine.

As a member of the Council of Europe, Ukraine is obligated to create a public television organization, however, it was the last among its fellow members to begin this process. The reasons are threefold: first, the lack of awareness and understanding of what public service broadcasting was in the early 1990s; second, the desire of the ruling political class to retain control over the media in order to further their interests; and, finally, the lack of the knowledge of the nature and social values of public broadcasting among the general public and key stakeholders.

On July 18, 1997, the Ukrainian Parliament passed several media bills, among them the Law on Public Broadcasting of Ukraine as well as legislation implementating the statutes of the national television and national radio. The latter was never enacted due to a presidential veto.

The law "On the System of Public Television and Radio Broadcasting of Ukraine" stipulates that the National Committee for TV and Radio approves the charter and composition of the public broadcaster's supervisory board, which is responsible for program concept, staff, the governing council, finance and reporting. The supervisory council must include one representative of each of the following entities:

- Each political party represented in the Ukrainian Parliament,
- The national creative unions and associations, per the list approved by the Verkhovna Rada,
- The president of Ukraine, the cabinet ministers, the national bank of Ukraine, the Ukrainian prosecutor general, the National Council of Ukraine on Television and Radio Broadcasting, the Antimonopoly Committee of Ukraine, and the state agency for intellectual property.

The public service broadcaster is to be funded by a monthly allocation from the state budget and by generating its own income within the bounds of the law. The government can commission certain programming, which is not to exceed 20% of total broadcast time. Commercial advertising cannot exceed 3% of broadcast time, or 43 minutes per day. The public broadcaster has priority in obtaining licenses and funding from the budget for the first year of broadcasting.

The law was enacted on November 5, 1997, and in less than three weeks, the Parliament of Ukraine adopted the decree "On creation of public television broadcasting in Ukraine."

On January 15, 1998, Parliament created the Public Broadcaster's Supervisory Board and instructed the respective committee to prepare a draft Charter of Public Television and Radio Broadcasting of Ukraine and submit it to Parliament. The composition of the Public Council includes representatives of 39 political parties, unions and public authorities. However, discrepancy in the usage of the terms "public" and "civil" allowed the regulator not to issue a license.

Another attempt, in 2002, to get Parliament to pass the amended law on public broadcasting was also unsuccessful and ended up in the courts. A third failure occurred two years later.

With the Orange Revolution and the 2005 election of Viktor Yushchenko, a more modern and pro-European president, public broadcasting was again on Parliament's agenda. During the mass

protests on December 20, 2004, a number of media organizations had formed a "public broadcasting" coalition. Once in office, President Yushchenko, who having experienced censorship first-hand as an opposition candidate, made a formal commitment to creating a public broadcaster.

Shortly before Yushchenko's election, on January 11, 2005, a number of public figures made a public appeal to establish a public broadcasting service on the basis of state-owned broadcasting companies. The main purpose of this effort would be providing "objective and impartial information to citizens of Ukraine regarding the events taking place in the country and abroad, providing a platform for the expression of their views to all social groups, national and religious minorities, creating high-quality programs, documentaries and TV series, and shaping aesthetic preferences by showing the best examples of world art cinema." Hearings followed and finally, in mid-April, the relevant committee of Parliament has formed a working group to develop a new version of the law "On Public Television and Radio Broadcasting of Ukraine" and instructed the group to submit the draft by May 18, 2005.

A newly formed Ukrainian NGO, the Media Law Institute, published its version of a bill drafted on the basis of the European model. The bill called for the two main state-owned companies, the Ukrainian Television Company and the Ukrainian Radio Company, to be reorganized into the public broadcaster. The Supervisory Board, appointed by Ukraine's Parliament, would represent the public interest with power to appoint and dismiss the president and the executive board, create the editorial policy, and supervise its implementation.

On June 8, the Verkhovna Rada approved the new Supervisory Board of the National Radio Company of Ukraine, headed by Vice Prime Minister Mykola Tomenko and, a month later, the public broadcasting bill finally passed the first reading.

At this point, the public broadcasting initiative began to lose steam. On October 5, 2005, the Council of Europe once again reminded Ukraine of its obligation to create a public service broadcaster. By that time, the small number of activists and public broadcasting champions had grown frustrated. The president's early enthusiasm seemed to have run out, and his chief-of-staff, Alexander Zinchenko, directly opposed the idea. Between sabotage from the staff of the National Television Company and the president's changed rhetoric, the initiative ground to a halt. Vitaly Dokalenko, a controversial journalist, allegedly close to the president, was appointed to run the National Television of Ukraine. Soon after, Parliament failed three times to approve the draft law over concerns that some would "steal" the state-owned television company. Ironically, the strongest support for public broadcasting came from the Communist Party which was part of the opposition, while the supposedly democratic majority failed to gather the much-needed votes. After a more than a year, the public broadcasting champions fell short of achieving their goal. Between 2006 and 2012, some activists, such as Parliament member Andriy Shevchenko, a journalist by trade, attempted to restart the process of creating a public service broadcaster, but time and again, these efforts failed in the face of mounting resistance from the Parliament. Finally, after President Yushchenko lost his seat to long-term rival Viktor Yanukovich and the "democratic" parties were once again in opposition, a new draft law was submitted to the Verkhovna Rada.

Draft law №1076 "On Public Television and Radio Broadcasting of Ukraine" was developed by the public humanitarian council and revised by experts. The draft bill, which originally didn't contain provisions for state funding, passed the first reading in July 2013. At that point, the bill was amended to include a plan to guarantee state funding and to use the state-owned broadcasting companies as the basis for the public broadcaster. However, Ukraine was soon overtaken by the protests against the government's decision not to sign the long-awaited

Association Agreement with the European Union, which led to the Revolution of Dignity. As the protests grew in scope, it became clear that Ukraine needed not only new leadership but also a new vision and agenda. Activists and experts formed a group that began working on such an agenda and later adopted the name “Reanimation Package of Reforms.” Since the government or oligarchs controlled all television channels at that time, the need for an independent broadcaster was clear.

At the same time, a group of notable media personalities formed a group named “Stop Censorship!” Among its three leaders, one – Mustafa Nayem – pursued a political route and was eventually elected to Parliament. Roman Skrypin had created a grassroots broadcaster Hromadske TV, which live-streamed events on Maidan over the Internet, and was in favor of a civil-society type of public broadcasting funded by donors. The third, Zurab Alasania, was an experienced journalist and media manager who owned MediaPort, an independent media company in the city of Kharkiv. Alasania emerged as the single candidate to head the National Television Company of Ukraine endorsed by the media community and civil society. On March 25, 2014 Zurab Alasania was appointed head of the National Television Company, an organization with 10,223 employees and under the control of the Cabinet of Ministers due to its legal status as a state Institution (as opposed to a state-owned enterprise).

Zurab Alasania

Alasania is of Georgian origin, having been born in Sukhumi in 1965. A civil engineering graduate from Kharkiv Institute of Construction & Architecture, Alasania found his passion in broadcast journalism. He worked as a correspondent for the current affairs program “Day by Day” and hosted a political talk show called “Field of Warfare.”

In 2000, Alasania cofounded the Objective Media Group, where he served as director until 2005 when he was tapped to head the state-owned regional TV company. With the support of the newly appointed head of the Kharkiv Oblast Administration, Arsen Avakov (currently, the minister of interior, a millionaire and an avid Yushchenko supporter), Alasania changed the dilapidated post-Soviet organization into a solid regional broadcaster providing balanced news and a platform for cultivated political dialogue in the region. Unfortunately, as the president’s support for freedom of speech wavered, so did Alasania’s ability to pursue his reformist agenda, prompting him to resign.

In 2006, he launched the news wire MediaPort and a weekly newspaper, The MediaPost. During the Revolution of Dignity at the Maidan, he helped create and operate the newborn grassroots broadcaster Hromadske TV, which, absent freedom of speech at major news outlets, became one of the few outlets providing information on the protests.

His reputation among the media and civic activists and his considerable experience running both private and public media organizations made him the strongest contender to lead the NTKU, the National Television Company of Ukraine. Alasania had planned to enlist in the army to help resist Russian aggression but he was not accepted for active service. He now saw the task of reorganizing the archaic and inefficient state-owned television empire into a modern public broadcaster as another front where he could fight.

In his new role, Alasania succeeded Alexander Panteleymonov, who served as interim director general until he was forced to resign on March 18, 2014.

Diana Popova, who heads the Culture Department at Kyiv City Administration, describes Alasania as a man of high integrity. “He is the type of leader who is ready to be at the frontline

and move forward step by step even when the context seems to be hopeless. One reason why we believed that the transformation of NTKU should work out in 2014, was the high systemic demand in the society.”

Media analyst and NTKU Board Member Yevhen Hlibovytsky observed, “The Government appointed Alasania and wanted him to fail. They gave him the political tools but no money at all so that he would have to ask the key political players for money and favors.”

Once given the reins, Alasania faced several problems: the poor quality of news and content, the predominance of illegal cash payments for coverage, ineffective management and problems with co-broadcasting. For instance, TV and radio company Era broadcasts between the hours of 22:00 and 7:00 on the same TV frequencies and radio. Moreover, there are legal problems with grass-root outlets Hromadske TV and Hromadske Radio which surfaced during Euromaidan.

Alasania’s Major Challenges

By the time Alasania headed the NTKU, public broadcasting had been on the losing side for almost ten years. Even though the Revolution of Dignity seemed to bring this issue to the fore, the government and pro-government political parties were once again reluctant to give up a ready-made propaganda vehicle, especially in the face of the massive wave of propaganda from Russia.

In addition, the most likely candidate to win the upcoming presidential elections was Petro Poroshenko who had opposed the idea of creating a public service broadcast organization since 2005. And although he listed its creation in his election platform, Poroshenko’s commitment was questionable. Once again, the idea of public broadcasting needed not only to garner political support and also to overcome overwhelming political resistance.

Even worse, the advocates of the initiative lacked a commonly shared vision of public broadcasting beyond the requirements of the Council of Europe. There were a number of stakeholders with varying levels of influence and sometimes conflicting needs.

For instance, there was no unity on the question of whether it’s better to create a new independent company or to reorganize and transform the existing network of 30 state-owned television and radio companies. The latter option was included in the draft law on public broadcasting, which was already halfway to being adopted by the Parliament. On the other hand, that option saddled the state-owned companies with outdated technical facilities, underfunded operations, and underpaid and unmotivated staff prone to sabotage and resistance.

The activists behind the idea of public broadcasting had a decision to make: restart the entire process from scratch, which would take much more time, or use the waning pressure from the post-Maidan civil society to push through the existing bill before this window of opportunity closes under the pressure of political resistance.

Another crucial challenge was ensuring financial sustainability without compromising editorial integrity. The total budget for NTKU allocated in 2014 was 614 million UAH; an additional 131 million UAH had to be earned through a so-called special fund. The government was likely to insist on using the channel to broadcast propaganda as long as it paid the NTKU’s bills since the country was at war. In fact, making an entity dependent on an individual ministry’s discretion was a strategy often used to block reforms. In other words, the creators needed to find a way to make the public service broadcaster independent in a system that did not allow for independent institutions and to ensure the continuous progress of this reform.

Yet another level of complexity lay in the disorderly structure of the state television and radio companies in the regions with their diverse ownership structures, intellectual property and other issues.

NTKU had a poor legacy, having traditionally tilted coverage in favor of whoever was in power. The Revolution of Dignity was a test that NTKU had failed utterly, having served exclusively as the government's mouthpiece without any pretense of objectivity or fairness. Alasania inherited low quality, populist content, lack of a strategy, and a gamut of financial schemes and violations.

The first issue for Alasania was to upgrade news coverage according to basic journalistic standards: it had to be balanced, based on verified facts and, first of all, accurate.

The second challenge was to change the programming. Alasania quickly got rid of the low-quality concerts, which used nearly four hours of broadcasting time per day. Unfortunately, due to contractual obligations, he could not stop airing the political TV-show of the Russian journalist Savic Shuster until December 31, 2014. Another challenge for Alasania in his effort to improve the quality of content was the fact that the company was contractually bound to allow external content producers to air their programming. One company in particular, TRK Era, was troublesome because of its unbalanced coverage. TRK Era has been on the National Television airways for years, and most viewers did not differentiate between its content and the channel's own. This led to vocal dissatisfaction and criticism among viewers. Unfortunately, the contract prevented Alasania from removing Era's programming from the air. He was able to find contract violations on behalf of Era pertaining to radio broadcast but not to television.

As the third step, Alasania opted to broadcast programming produced by the grass root initiatives Hromadske Radio and Hromadske TV. These non-commercial, NGO based initiatives were a breath of fresh air in Ukraine's oligarchic media environment and the first source of information about what happened in the Maidan. They appeared on air under pressure from protesters even though their broadcasts were illegal. Hromadske TV was eventually legalized as a co-production – including great investigative programs such as Schemes, Slidstvo.info and the satirical Uteodyn (a transliteration from the old name of the first channel – UT-1). But the situation with Hromadske Radio was more difficult; it could broadcast on NTKU's airwaves only after the National Radio Company was merged with NTCU and all legal documents were signed.

Alasania's fourth problem to resolve but definitely one of the first he faced, was to find senior staff for operational management who would accept the very low salaries the company was able to pay. Previously, managers supplemented their meager official incomes through backdoor cash deals that plagued NTKU under its former heads. Alasania managed to recruit a former minister of tourism of Crimea, now displaced from the peninsula as a result of the annexation. He helped Alasania to keep company afloat for half a year.

The fifth challenge involved cleaning house by eliminating the under-the-table cash deals that had plagued the company. Since the state chronically underfunded NTKU, its executives and staff traditionally relied on covert schemes to generate their income. For instance, NTKU rented space and production facilities to other companies, such as ESG group, which was associated with one of the members of Yanukovych's Party of Regions. ESG also purchased broadcast time to transmit its business news program, mainly consisting of paid-for news stories. Only a small portion of the revenue from companies like ESG would be paid officially, while the rest would be paid in cash and distributed among the senior managers and, to a lesser extent, to staff as unofficial and untaxed income. It was up to Alasania to ensure that all the revenues from NTKU's business dealings are officially recorded on the company's accounts and subject to proper taxation. Clearly, staff who had grown used to the hidden incomes did not enthusiastically

embrace this change.

All these management issues were exacerbated by the overall threat to national security and the integrity of the state itself. Ex-President Yanukovich and his so-called “family” fled the country in February 2014 and were stripped of their official positions. Ukraine was left virtually bankrupt. In March, Russia annexed Crimea, and 40,000 Russian troops began advancing into Eastern Ukraine, threatening to occupy the entire southeast portion of the country. Head of the Parliament (and, according to the Constitution, the acting president) Oleksandr Turchynov needed to oppose the enemy, which engaged in what had become known as “hybrid warfare,” of which propaganda and misinformation was a crucial part. Newly-appointed Prime Minister Yatseniuk needed to protect the country and prevent further social unrest, even though the state Treasury was nearly empty. Under those circumstances, as the head of the state-owned television company, Alasania had to make some tough decisions, including canceling Ukraine’s participation in the hugely popular Eurovision song contest.