

DENIS DIDEROT COMMITTEE

**HOW TO PREPARE AN ALTERNATIVE
TO THE KREMLIN BLACK-OUT ON MEDIA IN RUSSIA**

**Proposal for banning the pay-TV operators NTV Plus and Tri kolor
from operating on Eutelsat satellites and liberating capacities for
international news channels and possible Russian opposition channels**

Working paper

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<https://histv3.wixsite.com/denisdiderot>

EXECUTIVE SUMMARY

- ***The Russian aggression against Russia put into question the free flow of information***

Russia's military aggression against Ukraine on 24 February 2022 led to a brutal putting into question of diplomatic achievements between Russia and the rest of the world in terms of the free flow of information, as they are promoted by the Universal Declaration of Human Rights (1948), International Covenant on Civil and Political Rights (ICCPR, 1966) and the Helsinki Act (1973).

The disappearance in 1991 of the Soviet Union and the evolution of the Russian Federation towards a regime of representative democracy had allowed its membership of the European Audiovisual Observatory (1992), of the European Satellite Telecommunications Organization EUTELSAT (1995), the Council of Europe (1996) and its ratification in 1998 of the European Convention on Human Rights, Article 10 of which guarantees freedom of expression. The development of communication infrastructures (satellite television and then the Internet) have enabled the creation, on the initiative of European and American media groups, of Russian versions of their thematic channels and the transmission by satellite of seven Western channels of information, either in "free-to-air" mode or by integration into the bouquets of pay-TV operators (in particular NTV Plus and Trikolor).

- ***The European answer to Russian disinformation: from positive measures to the prohibition of two Russian services***

This positive development has been progressively hampered by the progressive control of Russian media by Vladimir Putin and his party, whether state-owned or owned by private groups of friendly oligarchs, and the regular attacks on the freedom of the press and journalists. In 2005, the Russian government launched Russia Today (now RT), a collection of channels in English, German, French, Spanish and Arabic aimed at promoting the Russian view of international developments. In parallel, the Sputnik network was developed as an online information site.

In Europe, the RT channels have acquired a significant audience in their TV broadcasting, but above all via the Internet. Over the years, in several countries, these channels have been increasingly perceived as spreading false information undermining the democratic life of States. The destabilising role of disinformation led the European Union to set up an observation structure in 2015 (EU vs Disinformation) and a High Level Group on fake news and online disinformation.

The High Level Group mainly recommended positive measures:

- enhance transparency of online news, involving an adequate and privacy-compliant sharing of data about the systems that enable their circulation online;
- promote media and information literacy to counter disinformation and help users navigate the digital media environment;
- develop tools for empowering users and journalists to tackle disinformation and foster a positive engagement with fast-evolving information technologies;
- safeguard the diversity and sustainability of the European news media ecosystem,
- continued research on the impact of disinformation in Europe to evaluate the measures taken by different actors and constantly adjust the necessary responses.

The invasion of Ukraine and the fact that RT and Sputnik promoted the official narrative of a "military operation in Donbass" rather than a war against the whole of Ukraine led the European Union to an unprecedented decision and the transition to a repressive policy: on March 2, a sanction decision was taken by the European Union aimed at making illegal the retransmission of RT and Sputnik by any operator from a Member State of the European Union. This decision was welcomed by national regulators, who pledged to implement it, but criticized by journalists' organisations, in particular the IFJ and the EFJ.

- ***Reinforcement of censorship in Russia and interruption of the distribution of foreign news channels***

On 4 March 2022 the Duma adopted and submitted for President's signature amendments to the criminal law. Same day the President signed the amendments into law. The Criminal Code of Russia has now three new articles. Article 207-3 introduces liability for "public dissemination of knowingly false information on the use of Armed Forces of the Russian Federation in the interests of protection of the Russian Federation and its citizens, sustainability of international peace and security". The penalty ranges from a fine of RUBLES 700,000 (about EURO 6,000) up to an imprisonment of 3 years. The same act, in case of its grave effect, shall be punished with an imprisonment of 10 to 15 years.

Citing adoption of the amendments a number of international media suspended reporting from within the Russian territory, while certain Russian media outlets stopped news reporting and erased archives related to the Russian war against Ukraine.

The distribution in Russia of the main foreign news channels has been prohibited de facto, without clear explanation. Channels such as CNN, BBC World Services, DW, France 24, TV5 Monde, Euronews were excluded on the satellite Russian TV packages NTV Plus and Tri kolor. On 4th March 2022 the state-owned Russian RIA news agency reported that in addition to blocking BBC News, the Russian communications agency Roskomnadzor (RKN) has also restricted access to the US government-funded Radio Liberty, US state-owned radio broadcaster Voice of America, Meduza (a Russian and English-language news site based in Latvia), and German state-owned broadcaster Deutsche Welle. It is not always clear if operators distributing the foreign channels has acted at the specific request of the Roskomnadzor or if they have decided to switch-off foreign channels by own interpretation on the law. On their websites, the packagers NTV Plus and National Satellite Company/Tri kolor published statements affirming the disappearance of some channels was the result of decisions by the rights owners (i.e. by the broadcasters), which is obviously untrue.

We consider that those decisions are not symmetric to the sanction against RT and Sputnik decided by the European Union: while RT and Sputnik were promoting the legitimacy of the "military operation" in Ukraine, (i.e. promoting war and non-respect of national security and territorial integrity of a State), the services concerned by the Russian interdiction, (most of them provided in the framework of public service principles recognizing the independence of the journalists), were just reporting and analysing the events, without obeying government instructions.

- ***The proposal of this report: banning the pay-TV operators NTV Plus and Triolor from operating on Eutelsat satellite and liberating capacities for international news channels and possible Russian opposition channels***

The key point of our this report is the following: the fact that both pay-TV operators NTV Plus, (subsidiary of the Gazprom Media Holding), and Triolor), have interrupted the transmission of 7 international channels, without clear explanation and probably under instruction of the government, represent an infringement to the principles of universality and non-discrimination included in the EUTELSAT IGO Convention and an infringement to the free flow of information, one of the commitment of the Russian Federation through the ICCPR, the Helsinki act and the EUTELSAT IGO Convention.

We consider that taking into consideration those infringements and the role played de facto by those two providers in depriving the Russian public of a diversified, pluralistic and fair information on the war in Ukraine and its consequence is a key element in the war script promoted by the Russian government. Therefore, sanctions could be taken using the same legal basis as the decision on RT and Sputnik: NTV Plus and Triolor could be prohibited of using the capacities of satellites operated by companies established in one EU Member State.

If this sanction was fully implemented, Eutelsat SA could take back the capacities currently occupied by the two Russian operators and allocate them to international news channels, channels in Russian already existing in the EU and in Ukraine, and to possible TV or radio stations created by the Russian opposition. Considering that around 30 to 40 % of the Russian TVHH are equipped with a satellite dish oriented at the 36°E position, this would create an important diversification of the sources of information for Russian citizens.

The Denis Diderot Committee

The Denis Diderot Committee was created as an informal network on the initiative of two experts in the field of satellite television and is open to any citizen demanding peace in Ukraine, the restoration of the free flow of information, the prohibition of war propaganda and solidarity with Russian civil society fighting for freedom of expression.

This document is a work in progress which has already benefited from comments and information from various professionals specializing in the field.

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1. The end of media freedom in the Federation of Russia and the role of television in war propaganda

Russia's military aggression against Ukraine on February 24, 2022 led to a brutal putting into question of diplomatic achievements between Russia and the rest of the world in terms of the free flow of information, as they had been promoted by the Universal Declaration of Human Rights (1948), International Covenant on Civil and Political Rights (ICCPR, 1966) and the Helsinki Act (1973).

The disappearance in 1991 of the Soviet Union and the evolution of the Russian Federation towards a regime of representative democracy had allowed its membership of the European Audiovisual Observatory (1992), of the European Satellite Telecommunications Organization EUTELSAT (1995), the Council of Europe (1996) and its ratification in 1998 of the European Convention on Human Rights, Article 10 of which guarantees freedom of expression. The development of communication infrastructures (satellite television and then the Internet) has enabled the creation, on the initiative of European and American media groups, of Russian versions of their thematic channels and the transmission by satellite of seven Western channels of information, either in "free-to-air" mode or by integration into the bouquets of pay-TV operators (in particular NTV Plus and TriKolor).

This positive development has been progressively hampered by the progressive control of Russian media by Vladimir Putin and his party, whether state-owned or owned by private groups of friendly oligarchs, and the regular attacks on the freedom of the press and journalists. In 2005, the Russian government launched Russia Today (now RT), a collection of channels in English, German, French, Spanish and Arabic aimed at promoting the Russian view of international developments. In parallel, the Sputnik network was developed as an online information site.

In the "2021 World Freedom Index" established by Reporters without frontiers, the Russian Federation was in the 150th position.¹ There is no doubt that the developments that following the invasion of Ukraine has led the Russian government to further reduce civil liberties to the point of practically preventing the expression of any divergent expression.

1.1. Before 24 February 2022

The fact that the leading TV channels in Russia are under control of the governmental and provide a biased presentation of the events in Ukraine is nothing new. The role of State propaganda in the Putin regime was highlighted as soon as 2002 by the journalist Anna Politkovskaia, murdered in 2002². It was confirmed during the year 2014 with the coverage of the Euromaidan protests, the annexation of Crimea and the military actions in the Donbass.³ The coverage of Ukraine by State television contributes to the framing of the debate on Internet⁴. The effect of the governmental propaganda in

¹ <https://rsf.org/en/russia>

² Ana Politovskaia, "War, Terrorism and Journalists: the Chechen experience", in S.T. Kwame Boafo and Sylvie Coudray (eds.), *Media, violence and terrorism, International Conference on Media and Terrorism, Manila, 2002*, Unesco, 2003

³ See Julie Fedor (ed.), "Special Issue: Russian Media and the War in Ukraine", *Journal of Soviet and Post-Soviet Politics and Society*, Vol. 1, No. 1 (2015)

⁴ Christina Cottiero, Katherine Kucharski, Evgenia Olimpieva and Robert W. Orttung, "War of words: the impact of Russian state television on the Russian Internet", Published online by Cambridge University Press: 20 November 2018

the news has impacted not only in the Russian public sphere but had also important impact on the 2014 Ukrainian election⁵. An analysis of presentation of economic issues on Russian State television shows how the media attempts to manipulate the beliefs about the causes of those facts, without distorting or hiding the facts themselves.⁶ The effect of State propaganda has been measured in case of coexistence with alternative media.⁷

Since the Russian Federation ratified the European Convention on Human Rights (ECHR) in 1998, the European Court of Human Rights (ECtHR) has found 116 violations by the Russian authorities of the right to freedom of expression and information as guaranteed by Article 10 ECHR.

According to the Committee to Protect Journalists, 28 journalists were murdered in the Russian Federation since 2000.⁸ Various cases of intimidation against foreign journalists or of expulsion were reported.⁹

Legislative and governmental initiatives taken in the last years illustrate how the Kremlin has prepared a complete black-out of the media and of the Internet:

- Adopted in 2019 by the Duma, the law FZ90, the “sovereign Runet” law, has created the legal framework to disconnect the Russian net from the worldwide network. Even if not yet implemented, this law is a signal of the willingness to prohibit the access of foreign news and ideas in the country.¹⁰
- The Russian Federation’s Federal Statute N 121-FZ of 20 July 2012 entitled “on amendments to certain legislative acts of the Russian Federation with regard to regulating the activities of non-commercial organisations acting as foreign agents” is commonly known as the “Foreign Agents” Statute. In its latest version, of 2019, this law requires Russian NGOs to register with the Ministry of Justice of the Russian Federation as “organisations performing the functions of foreign agents” if they receive foreign funding and engage in activities broadly described as “political”. It allows the Ministry of Justice to register NGOs as “foreign agents” on its own initiative, imposes the use of the “foreign agents” label on any foreign media directly or indirectly receiving foreign funding and

⁵ Leonid Peisakhin and Arturas Rozenas, “Electoral Effects of Biased Media: Russian Television in Ukraine”, *American Journal of Political Science* Vol. 62, No. 3 (JULY 2018), pp. 535-550

⁶ Arturas Rozenas and Denis Stukal, “How Autocrats Manipulate Economic News: Evidence from Russia’s State Controlled Television”, *The Journal of Politics*, Volume 81, Number 3, July 2019

⁷ Nikita Melnikov, “Censorship, Propaganda, and Political Popularity: Evidence from Russia”, SSRN, 1st March 2019.

⁸ See <https://cpi.org/>

⁹ See for exemple : « BBC News statement on intimidation in Russia”, BBC Press Office, 18 September 2014 ; “Statement from Tim Davie on the expulsion of BBC Moscow Correspondent Sarah Rainsford”, BBC Press Office, 13 August 2021.

¹⁰ Kevin Limonier, « Vers un « Runet souverain » ? Perspectives et limites de la stratégie russe de contrôle de l’Internet », *EchoGeo*, 56/2021 ; Kevin Limonier, « La Russie peut-elle se déconnecter d’Internet ? », *Le Rubicon*, 24 mars 2022.

includes in its “foreign agents” status private individuals, such as bloggers and independent journalists.¹¹

- The Law No. 1052523-7 Amendments to the Federal Law “On Non-Commercial Organizations”, tabled by the Government in July 2020 and signed by President Putin 4 May 2021 allow the Ministry of Justice to interfere with the statutory activities of both NGOs that receive foreign funding and international or foreign NGOs (INGOs) operating in Russia. In particular, the law provides that the NGOs concerned would have to communicate information in advance and report about their planned projects and events to the Ministry of Justice, while the latter would have discretionary power to approve or ban those activities. The law does not provide any guidance as to what actions could be prohibited and on what grounds. Failure to comply with such a ban would lead to the liquidation of the NGO concerned.

At the end of 2021, the association Reporters Without Frontiers published the following statement on the situation of journalists in Russia:

With draconian laws, website-blocking, Internet cuts and leading news outlets reined in or throttled out of existence, the pressure on independent media has grown steadily since the big anti-government protests in 2011 and 2012. The harassment has risen to a new level since Kremlin opponent Alexei Navalny’s return to Russia and immediate arrest on arrival. Journalists trying to cover Navalny-related events including demonstrations in his support are being subjected to unprecedented and sometimes violent obstruction. As the major TV channels continue to inundate viewers with propaganda, the climate has become very oppressive for those who question the new patriotic and neo-conservative discourse, or just try to maintain quality journalism. Vague and selectively laws are used to imprison journalists and bloggers. The Kremlin seems determined to control the Internet, a goal referred to as the “sovereign Internet”. Journalists are now being branded as “foreign agents,” a defamatory label already applied to some media outlets and leading media defense NGOs. Journalists covering the big protests taking place in the far-east city of Khabarovsk since the summer of 2020 are often arrested and given huge arbitrary fines to make them stop. Crimea, which was annexed in 2014, and Chechnya have meanwhile become “black holes” from which little news and information emerges. Two other republics in the Russian Caucasus, Dagestan and Ingushetia, are going the same way. Murders and physical attacks against journalists continue to go unpunished – even if campaigns can achieve victories in the face of absurd accusations by the authorities, as in the case of Ivan Golunov, an investigative journalist released in June 2019 after being arrested on a trumped-up drug trafficking charge.

Russia on 3 February 2022 said it was closing the Moscow bureau of German broadcaster Deutsche Welle and revoking its employees' accreditations in the country. The Russian Foreign Ministry also said in a statement that it would "terminate the satellite and other broadcasting [output] of Deutsche Welle" on Russian territory. Russia had earlier criticized a German regulator's ban on German-language

¹¹ Andrei Richter, “Foreign agents” in Russian media law, European Audiovisual Observatory, Strasbourg, 2020

programming by Russia's state broadcaster RT as an attack on freedom of expression and freedom of the press.¹²

1.2. Since the 24 February 2022: toward a total black-out

On 24 February, Russia's media watchdog, Roskomnadzor, issued a general instruction to all media outlets, when reporting on the "special operation" in Ukraine, to use information only from official Russian sources. It reported, that "in recent hours, the number of cases of dissemination by the media and other information resources operating on the Internet of unverified and unreliable information has significantly increased." This general warning, in particular, referred to Article 49 ("Duties of a Journalist") of the 1991 Statute on the Mass Media, requiring checking authenticity of information prior to its dissemination.¹³

Roskomnadzor informed media and information resources, that when preparing their materials and publications regarding the conduct of the "special operation", they were obliged to use information and data received by them "only if it comes from official Russian sources". "We emphasise that it is Russian official information sources that have, and disseminate, accurate and topical information," Roskomnadzor concluded. In its further statements, Roskomnadzor said that upon the requirement of the Prosecutor General's Office it had started to block Internet resources that hosted false information. These resources were blocked without specific warnings or explanations of what exactly was to be considered false. Roskomnadzor noted that the Investigative Committee of Russia would be provided with "materials on such cases" in order to determine the criminal liability of the owners of such media resources. The only specific example given by Roskomnadzor was the use of words "attack", "invasion", and/or "a declaration of war" instead of the official label of a "special operation". Dissemination of information about the shelling of Ukrainian cities and the death of civilians in Ukraine as a result of "actions of the Russian Army", as well as "mass losses" of the Russian military personnel was also considered illegal.

Roskomnadzor also launched an administrative investigation into the dissemination of unreliable, publicly significant information by the listed media. The offence is punishable with a fine of up to RUB 5 million (about EUR 62,000 at the then exchange rate) and Roskomnadzor warned that it would promptly block dissemination of such reports online.

One month after the beginning of the Ukraine war, we have not yet at our disposal scientific analysis of the coverage of the recent events by the main Russian TV channels. However, it is clear that the coverage of the war by the leading television channels follows the Kremlin propaganda¹⁴ and that

¹² Christian Buß, *Der Medienkrieg hat gerade erst begonnen*, *Der Spiegel*, 3. Februar 2022; "Russia shuts DW's Moscow bureau, withdraws staff credentials", DW, 3 February 2022 ; German politicians and institutions support DW after Russian ban, DW, 3 February 2022 ; "Why Deutsche Welle is not the same as RT", DW, 4 February 2022

¹³ The 3 first paragraphs are taken from Andrei Richter, "Limiting Freedom of the Media in Times of War", *IRIS 3/2022*, European Audiovisual Observatory.
<http://merlin.obs.coe.int/article/9431>

¹⁴ "What Are Russian State Media Saying About Ukraine?", *The Moscow Times*, 21 February 2022 ; Jake Cordell, "How is Russia's State TV Depicting the War in Ukraine?", *The Moscow Times*, 25 February 2022 ; "Why Do We Need a World if Russia Is Not In It?": State TV Presenter Opens Show With Ominous Address, *The Moscow Times*, 28 February 2022 ; Vu de Russie : comment la télévision russe traite de la guerre en Ukraine ?", *France 24*, 23 mars 2022

censorship of opposition views has been increased and the word “war” itself is prohibited and replaced by “military opposition”.

As pointed out by a release of the Russian Trade Union of Journalists and Media Workers¹⁵, on 26th February 2022, the media regulator Roskomnadzor (RKN) announced the launch of an administrative investigation against a number of Russian media outlets for "distributing false information of public interest." By all indications, this is about direct censorship: the RKN dictates not only what information can be disseminated, but also what words to use. The trade union demands not to violate the constitution and not to prevent journalists from fulfilling their professional duty.

In accordance with Art. 15.3 of Federal Law No. 149-FZ "On Information, Information Technologies and Information Protection", the online resources of Ekho Moskvyy radio, InoSMI, Mediazona, New Times, TV-Dozhd, Svobodnaya Pressa, Krym.Realii, Novaya Gazeta, Journalist, Lenizdat, and other media outlets were blocked.¹⁶

After a second warning received from the RKN, Ekho Moskvyy decided to stop its activities. "By a majority vote of the board of directors of Ekho Moskvyy, a decision was made to liquidate the radio channel and the website of Ekho Moskvyy," announced Ekho Moskvyy by Telegram, 3rd March 2022¹⁷. Others have been blocked or are threatened with closure: Mediazona, Doxa, The Village, Zvezda (Perm), TV2 (Tomsk), Vecherny Krasnoturyinsk, Vecherny Karpinsk, Pro Severouralsk, Globus (Serov), Znak.com (Ekaterinbourg)... The radio station Silver Rain, under the slogan “We can’t tell the truth anymore, but we don’t want to lie”, reported that from now on it would only broadcast music¹⁸.

On 4 March 2022 both chambers of the Russian parliament adopted and submitted for President’s signature amendments to the criminal law. Same day the President signed the amendments into law. The Criminal Code of Russia has now three new articles. Article 207-3 introduces liability for “public dissemination of knowingly false information on the use of Armed Forces of the Russian Federation in the interests of protection of the Russian Federation and its citizens, sustainability of international peace and security”. The penalty ranges from a fine of RUBLES 700,000 (about EURO 6,000) up to an imprisonment of 3 years. The same act, in case of its grave effect, shall be punished with an imprisonment of 10 to 15 years.¹⁹

Article 280-3 introduces liability for public actions aimed to “discredit the use of Armed Forces of the Russian Federation in the interests of protection of interests of the Russian Federation and its citizens, sustainability of international peace and security, including through public calls to counteract” such a use of forces. Following an administrative punishment for such public misbehaviour within 12 months, a person shall face a fine from RUBLES 100,000 up to an imprisonment of 3 years.

¹⁵ “War is Peace”, Trade Union of Journalist and Media Workers, 26 February 2022, <https://profjur-org.translate.google/vojna-jeto-mir/? x tr sl=ru& x tr tl=en& x tr hl=fr& x tr pto=wapp>

¹⁶ Andrei Richer, op. cit.

¹⁷ “Russia blocks Ekho Moskvyy and Dozhd TV, restricts social media access”, CPJ, 1 March 2022 ; “Ekho Moskvyy, One Of Russia's Last Independent Broadcasters, Closes Amid Government Crackdown”, RFE/RL, 3 March 2022

¹⁸ “EU Must Support Independent Russian Journalists”, European Federation of Journalists, 4 March 2022

¹⁹ Andrei Richter, “Criminal Liability for “false reports” and “harmful calls” expanded, IRIS 3/2022, European Audiovisual Observatory, 2022 <http://merlin.obs.coe.int/article/9434>

In case such actions led, in particular, to mass disorder, the penalty increases to an imprisonment of 5 years.

According to a new Article 284-2 public calls by a Russian citizen for foreign or international sanctions against the Russian Federation, Russian legal entities of citizens shall be punishable with a fine or imprisonment of up to 5 years.

Citing adoption of the amendments a number of international media suspended reporting from within the Russian territory, while certain Russian media outlets stopped news reporting and erased archives related to the Russian war against Ukraine. *"The BBC, bluntly saying that the law "appears to criminalize the process of independent journalism," said that it had no choice but to "temporarily suspend the work" of its journalists and staff in Russia as it assesses the "full implications of this unwelcome development." CNN said the network "will stop broadcasting in Russia while we continue to evaluate the situation and our next steps moving forward."*²⁰

On February 3, the Russian Foreign Ministry said it would take "retaliatory measures against the German media" working in Russia after German authorities banned the state-run Russian TV channel "RT DE." This included "recognizing DW as a foreign media outlet fulfilling the functions of a foreign agent," the Foreign Ministry said in a statement. DW was forced to shutter its Moscow office and its journalists in Russia had to relinquish their accreditation, making it impossible to work in Russia. In early March, DW's website was blocked by state communications regulator Roskomnadzor. Shortly after, DW moved its Moscow office to the Latvian capital Riga.²¹

The distribution in Russia of the main foreign news channels has been prohibited de facto, without clear explanation. Channels such as CNN, BBC World Services, DW, France 24²², TV5 Monde, Euronews were excluded on the satellite Russian TV packages NTV Plus and Tri kolor. The four channels of the Italian broadcaster RAI which used to be available (RAI 1, RAI 2, RAI 3, Rainews 24) have also disappear from the NTV+ line-up in circumstances that we have not yet clarified.

²⁰ Olivier Darcy, CNN, BBC, and others suspend broadcasting from Russia after Putin signs law limiting press, CNN Business, 5 March 2022 ; "Russia further blocks media outlets, social media", CPJ, 4 March 2022. The statement of the BBC Press office is as follow : *"We have considered the implications of the new legislation alongside the urgent need to report from inside Russia. After careful deliberation we have decided to resume English language reporting from Russia this evening (Tuesday 8 March), after it was temporarily suspended at the end of last week. We will tell this crucial part of the story independently and impartially, adhering to the BBC's strict editorial standards. The safety of our staff in Russia remains our number one priority."* BBC Press Office, 8th March 2022.

²¹ Russia labels Deutsche Welle a 'foreign agent', DW, 28 March 2022

²² According to Marie France Saragosse, CEO of France Medias Monde, the French public holding in charge of France 24, RFI, France 24 was available in 28 millions of TVHH in French and in English. With 2 millions of regular viewers in CSP+ category. The channel is still available in DTH outside packagers in 1,7 millions of TVHH. Interview "L'Instant M", France Inter, 25 March 2022. <https://www.franceinter.fr/emissions/l-instant-m/l-instant-m-du-jeudi-24-mars-2022> The France 24 content is still accessible in Russia through YouTube.

On 4th March 2022 the state-owned Russian RIA news agency reported that in addition to blocking BBC News, the Russian communications agency Roskomnadzor (RKN) has also restricted access to the US government-funded Radio Liberty, US state-owned radio broadcaster Voice of America, Meduza (a Russian and English-language news site based in Latvia), and German state-owned broadcaster Deutsche Welle.²³ It is not always clear if operators distributing the foreign channels has acted at the specific request of the Roskomnadzor or if they have decided to switch-off foreign channels by own interpretation on the law.²⁴ On their websites, the packagers NTV Plus and National Satelite Company/Trikolor published statements affirming the disappearance of some channels was the result of decisions by the right-owners (i.e., by the broadcasters), which is obviously untrue.

On NTV+ website²⁵ :

НОВОСТИ 10 МАРТА

Изменения в вещании каналов

В связи с тем, что по решению правообладателей на территории Российской Федерации прекращено вещание некоторых телеканалов, они больше не транслируются на платформе НТВ-ПЛЮС. Обращаем внимание, что, в соответствии с условиями оказания услуг, НТВ-ПЛЮС может изменять состав пакетов и условия подписки. В настоящее время мы проводим переговоры с правообладателями, чтобы в скором времени вы смогли смотреть новые каналы вместо прекративших вещание.

²³ EFJ, Ibid.

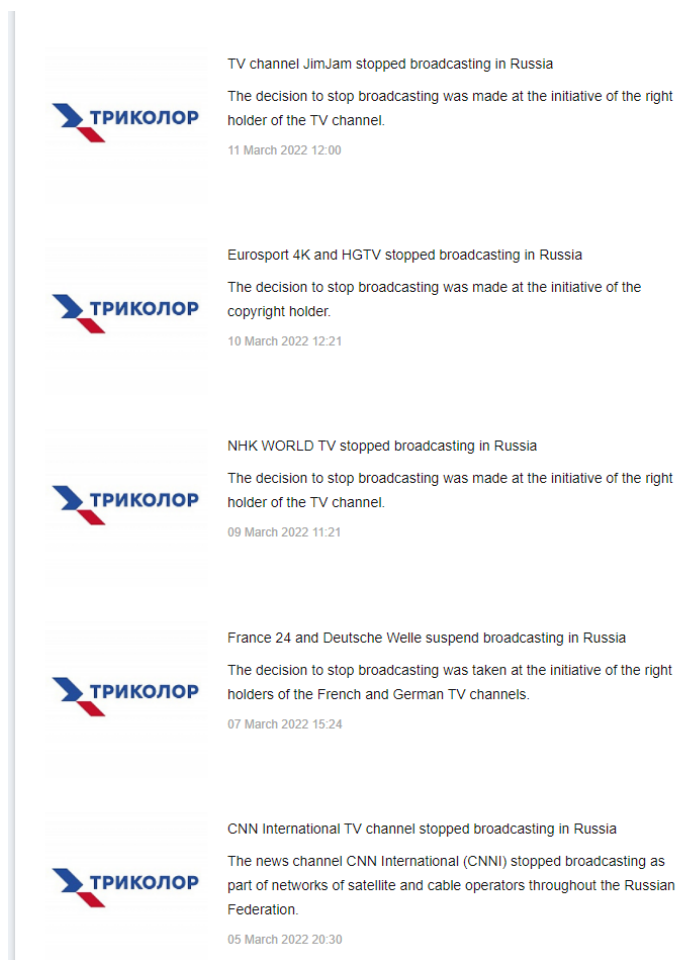
²⁴ According to information communicated by the press service of France Media Monde, the decision was taken by the operators (i.e. the distribution companies, the “packagers”) by application of the law.

BBC has passed to us the following statement: "Since early March, BBC World News has not been available on domestic platforms in Russia. It continues to be available on the Hotbird satellite at 13degrees East. The BBC regrets that our Russian audiences are being denied access to trusted and impartial news at a time when they need it most. The BBC has taken a number of steps to try and make sure its news reaches as many people as possible in Russia and Ukraine – eg. Promoting secure means of access to internet services and some shortwave radio broadcasts."

The Euronews press release (22nd March 2022) call into question the responsibility of the Russian media authority and does not of course make any reference to a possible own decision to withdraw the service from the platforms.

²⁵ <https://ntvplus.ru/company/novosti/izmeneniya-v-veschaniy-kanalov-2123>

On Trikolor website ²⁶:



The screenshot displays a list of five news items on the Trikolor website. Each item features the Trikolor logo (a blue and red stylized 'T' followed by the word 'ТРИКОЛОР' in blue Cyrillic) on the left. The text of each item is as follows:

- TV channel JimJam stopped broadcasting in Russia**
The decision to stop broadcasting was made at the initiative of the right holder of the TV channel.
11 March 2022 12:00
- Eurosport 4K and HGTV stopped broadcasting in Russia**
The decision to stop broadcasting was made at the initiative of the copyright holder.
10 March 2022 12:21
- NHK WORLD TV stopped broadcasting in Russia**
The decision to stop broadcasting was made at the initiative of the right holder of the TV channel.
09 March 2022 11:21
- France 24 and Deutsche Welle suspend broadcasting in Russia**
The decision to stop broadcasting was taken at the initiative of the right holders of the French and German TV channels.
07 March 2022 15:24
- CNN International TV channel stopped broadcasting in Russia**
The news channel CNN International (CNNI) stopped broadcasting as part of networks of satellite and cable operators throughout the Russian Federation.
05 March 2022 20:30

To our knowledge, there is no explicit text of law or specific decision obliging the two platforms to stop interrupting the retransmission of foreign news channels. Their exclusion from the offer has all the appearance of a unilateral breach of contract, probably under pressure from government authorities.²⁷ In doing so, the platforms are probably infringing the principles of universality and non-discrimination included in the EUTELSAT IGO Convention. This action also constitute an infringement to the free flow of information, one of the commitment of the Russian Federation through the ICCPR, the Helsinki act and the EUTELSAT IGO Convention.

²⁶ <https://blog.Trikolor.tv/>

²⁷ The verification of such an assertion is obviously beyond the scope of our Committee. It would be interesting for the various broadcasters concerned to compare their experiences and publish a press release and a joint complaint.

Foreign correspondents had to close their activities not to face the repressive measures implemented in the “fake news” law signed by President Putin the 4 March 2022²⁸. News channels such as BBC Worldwide, CNN, Deutsche Welle, CBC, have announced that they were taking conservative measures to protect their correspondents in the country²⁹.

Various US media companies have interrupted their services in Russia: Netflix³⁰, Discovery³¹, Amazon, WarnerMedia³², Disney³³. Discovery Inc. on 9th March said it will suspend the broadcast of its channels and services in Russia Fifteen of Discovery's entertainment brands, including HGTV, Animal Planet, TLC and Eurosport, are distributed through Media Alliance, a joint venture with Russia's National Media Group. The channels were effectively withdrawn from the NTV+ line-up.³⁴

Access to social media (Twitter, Facebook, Instagram) has also been blocked.³⁵

Euronews, the last European news channel which was accessible to the Russian public (also in a Russian version) was prohibited to access distribution network the 21st March 2022.³⁶

²⁸ “Russia restricts access to DW's website”, DW, 4 March 2022 ; Siobhan Toman and Sophie Williams “War in Ukraine: BBC suspends its journalists' work in Russia”, BBC News, 5 March 2022 ; “Global news media on defensive after Putin signs 'fake news' law”, Reuters, 5 March 2022 ; “Euronews calls on the respect of article 19 of the UN’s Universal Declaration of Human Rights on media freedom”, *Euronews*, 22 March 2022 ; “Liberal Russian TV Dozhd Suspending Operations Over Ukraine Ban”, AFP, 3 March 2022; “Russie : la repression du Kremlin musèle les journalistes indépendants”, *Amnesty International*, 11 mars 2022

²⁹ “BBC, CNN and other global news outlets suspend reporting in Russia”, *The Guardian*, 5 March 2022; Alex Weprin, “CNN to Stop Broadcasting in Russia After Censorship Law Passes”, *The Hollywood Reporter*, 4 March 2022

³⁰ Brent Lang, « Netflix Suspends Service in Russia Amid Invasion of Ukraine », *Variety*, 6 March 2022. “This followed an earlier decision to ignore a new Russian law that came into effect at the beginning of this month that would have required it to distribute around 20 FTA Russian news and entertainment channels. It also said it was stopping acquisitions and the production of original programmes.” Chris Dziadul, “Exodus from Russia”, *Broadband TV News*, 11 March 2022

³¹ “Discovery to suspend broadcasts in Russia”, Reuters, 9 March 2022. Discovery has suspended the distribution of 15 TV channels, including Animal Planet, Eurosport, HGTV and TLC

³² « Amazon, WarnerMedia and Discovery Join Russian Boycott », *The Hollywood Reporter*, 9 March 2022

³³ “Disney to pause all business in Russia”, *Reuters*, 10 March 2022

³⁴ “Discovery to suspend broadcasts in Russia”, Reuters, 9 March 2022.

³⁵ Joe Tidy & James Clayton, “Ukraine invasion: Russia restricts social media access”, BBC News, 26 February 2022; “Russia blocks access to Facebook and Twitter”, *The Guardian*, 4 March 2022; “Instagram banned in Russia over 'calls to violence'”, *BBC News*, 11 March 2022

³⁶ « Guerre en Ukraine : la chaîne Euronews, installée à Lyon, interdite de diffusion en Russie », *Lyon Capitale*, 22 mars 2022

Within the Russian television personal, movements of opposition are remarkable. Various opposition journalists left the country.³⁷ First person charged under the new law is not a journalist but a blogger³⁸, but directly after this a journalist was charged for information on the shelling of the Mariupol hospital³⁹. The protest action of Marina Ovsyannikova during a news program of Channel One the 14th March has given national and worldwide visibility to the lack of freedom for journalists and the to the manipulation of State television for the war propaganda. This trend has been confirmed by the numerous resignations by leading Russian TV journalists from the RT, Channel 1 and NTV channels.⁴⁰

The 27 March, DW and other foreign media classified as “foreign agents” by the Russian Ministry of Justice. "This decision was made based on the documents received from the authorized state authorities," the ministry said in a statement. The statement didn't elaborate on the documents or authorities in question.⁴¹.

On March 28, Novaya Gazetta, the newspaper whose editor-in-chief is Dmitry Muratov announced to suspend publication after a second warning from Roskomnadzor.⁴²

Those dramatic changes in the Russian media landscape leads to a country where almost no opposition media or news from foreign media are accessible to the vast majority of the population. Some fraction of the population succeeded to maintain contact with the rest of the World using VPN (also being sanctioned by the Roskomnadzor)⁴³, the Telegram social network or TOR, a software which offers a

³⁷ « Les journalistes indépendants, victimes collatérales de l’invasion russe en Ukraine », *RFI*, 15 mars 2022

³⁸ Pjotr Sauer, ‘It is not possible to stay quiet’: Putin’s first victim of ‘fake news’ law speaks out, *The Guardian*, 17 march 2022.

³⁹ “New censorship law in Russia: first case of criminal prosecution of a journalist”, *European Federation of Journalists*, 22 March 2022

⁴⁰ Paul Kirby, “Russia's state TV hit by stream of resignations”, *BBC News*, 16 March 2022 ; Sweta Sharma, “Russian journalists are quitting state-run media after editor flashed anti-war sign live on air”, *The Independent*, 17 March 2022 ; Rebeca Falconer, “Russian state TV sees wave of resignations following Ukraine invasion”, *Axios*, 17 March 2022; Russia TV's Paris correspondent slams 'propaganda' after quitting, *France 24*, 22 mars 2022. See also “Journalist risking jail to report from inside Russia speaks out”, *CNN*, 13 March 2022”, <https://www.youtube.com/watch?v=NrOTC1HTdMQ>

⁴¹ Russia labels Deutsche Welle a 'foreign agent', *DW*, 28 February 2022

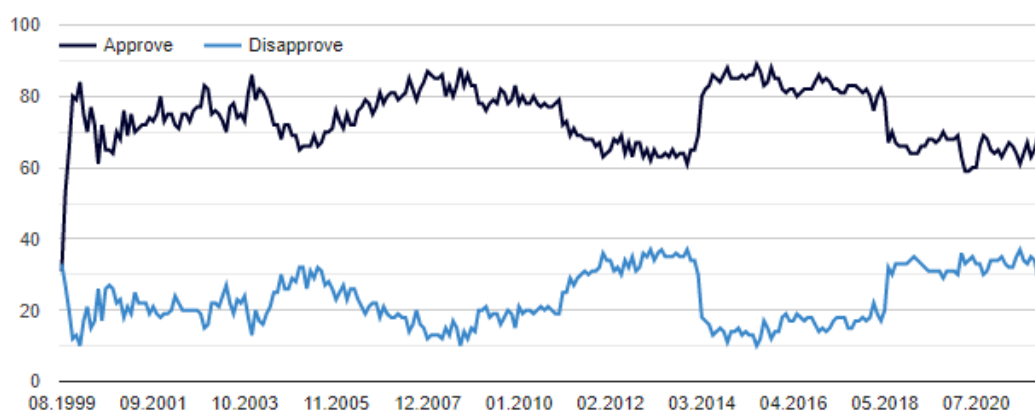
⁴² *The Guardian*, 28 March 2022

⁴³ Brian Fung, “Russian internet users are learning how to beat Putin's internet crackdown”, *CNN Business*, 15 March 2022.

way to pass through censorship while protecting your privacy⁴⁴. but the possible complete implementation of the sovereign Runet law could undermine those last channels of communication.

The consequence of the disappearance of the opposition media and the sharp reduction in access to foreign sources of information in the context of the war seems to be the upsurge in public opinion's support for President Putin's image. - if we can still consider that this Kantian concept makes sense in a society where information and expression are no longer free. The regular membership rate measured by the Levada-Center, an organization generally considered serious by Western professionals, was revised in March 2022 to 83%, a level it had not seen since April 2018. But the reliability of the answers not reduced by the context of restriction of freedom of expression generated by the state of war, a term whose only use is likely to prosecute?

PUTIN'S APPROVAL RATING



Do you approve the activities of V. Putin as the President (Prime Minister) of Russia?

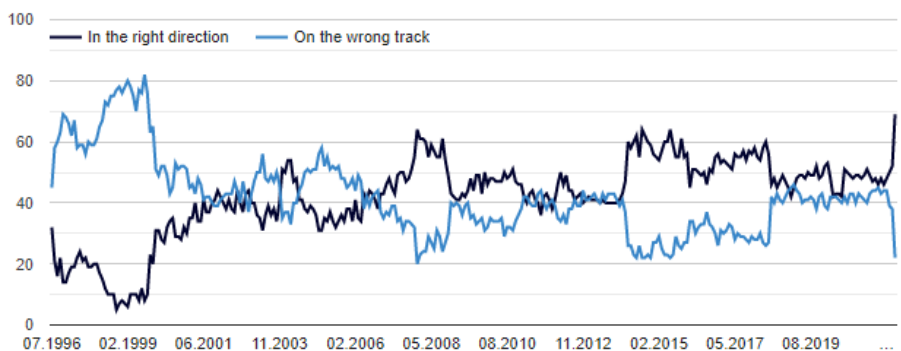
	10.2021	11.2021	12.2021	01.2022	02.2022	03.2022
Approve	67	63	65	69	71	83
Disapprove	33	35	34	29	27	15
No answer	1	2	1	2	1	2

Source : Levada-Center⁴⁵

⁴⁴ 'How to circumvent state internet censorship in Russia', *DW*, 9 March 2022

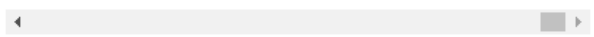
⁴⁵ Levada-Center, « Indicators », <https://www.levada.ru/en/ratings/>, retrieved 5 April 2022

ASSESSMENT OF SITUATION IN THE COUNTRY

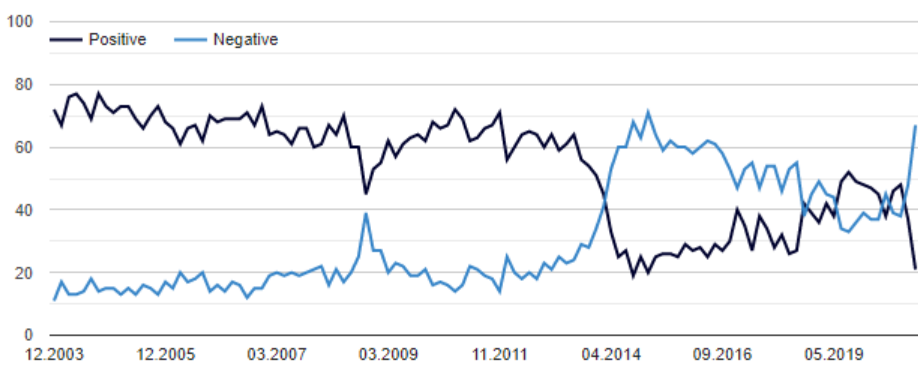


Is Russia moving in the right direction or this course is a dead-end?

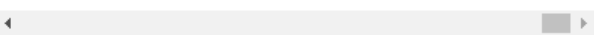
	10.2021	11.2021	12.2021	01.2022	02.2022	03.2022
In the right direction	48	46	48	50	52	69
On the wrong track	43	44	44	39	38	22
Difficult to answer	9	10	8	11	10	9



ATTITUDE TO THE EU



	01.2021	05.2021	08.2021	11.2021	02.2022	03.2022
Positive	45	38	46	48	37	21
Negative	37	45	39	38	48	67
Difficult to answer	17	17	15	14	15	12



Source : Levada-Center , <https://www.levada.ru/en/ratings/>

1.3. Towards officialisation of infringement to intellectual property law

A further trend of the media policy in the Russian Federation since the beginning of the war is the trend towards officialization of infringement to intellectual property law.

According to Russian channel Venediktov, the Ministry of Economic Development has proposed early March the legalization of pirate video content containing works from countries or companies that have joined the sanctions against Russia.

According to Gazetta.ru⁴⁶, State Duma Deputy Dmitry Ionin proposed to unblock RuTracker since many Western studios have refused to release new films in Russia, the parliamentarian believes that thanks to the torrent tracker, users will be able to watch Hollywood films. Rutracker.org (torrents.ru until 2010) is the biggest Russian BitTorrent tracker. As of March 2022, it had 13.74 million registered users, 2.141 million of torrents (1.975 million of them were active), and the total volume of all torrents were 4.653 Petabytes.⁴⁷ However, according to Torrentfreak, the managers of RuTracker are supporting Ukraine In response to the new traffic, RuTracker implemented a Russian IP address blockade. It's not the usual reaction to being unblocked but the torrent site had its reasons. "Possible unlocking of the RuTracker carries certain risks for our users who will access it from their IP addresses without using a VPN. Copyright holders did not go anywhere, no one canceled [the laws] about piracy," a site representative said. "We are also not looking for communication with state bodies of Russia demanding to give them personal data of users. Therefore, in the current situation, we are categorically against and will prevent such an 'unlock'."⁴⁸

Vladimir Medinsky, chairman of the Russian Military Historical Society (RVIO), Assistant to the President of the Russian Federation Vladimir Medinsky suggested that TV channels show movies without copyright. At the second meeting of the interdepartmental commission on historical education. Meditsky noted that TV channels could show foreign films without copyright. "Who needs these copyrights now? People will be grateful to you," the official said.⁴⁹

According to the Current Time, the Russian parliament (Duma) has proposed replacing the distribution of Western films in the country with titles from China, India, Kazakhstan and Uzbekistan. Elena Drapeko, the first deputy of the State Duma on Culture, now plans to discuss the proposal with the Ministry of Culture.⁵⁰

⁴⁶ Gaetta.ru, tweet, 3 March 2022

⁴⁷ "RuTracker.org". *rutracker.org*. Archived from the original on 2022-03-17. Retrieved 2022-03-17 (from article RuTracker on Wikipedia.en, retrieved on 4 April 2022

⁴⁸ "RuTracker Found Itself Unblocked in Russia So Immediately Blocked Itself", Torrentfreak, 23 March 2022.

⁴⁹ "Мединский предложил игнорировать авторские права при показе зарубежных фильмов по телевидению" *Novaya Gazetta*, 24 March 2022. <https://novayagazeta.ru/articles/2022/03/24/medinskii-predlozhit-ignorirovat-avtorskie-prava-pri-pokaze-zarubezhnykh-filmov-po-televideniiu-news>

⁵⁰ Chris Dziadul, "Russia set to replace Western films", Broadband TV News, 23 March 2022.

2. The Russian Federation does not respect its international commitments in terms of freedom of expression, free circulation of news and opinion and prohibition of war propaganda

All those news demonstrate the clear infringements of the Russian in terms of freedom of expression, free circulation of news and opinion and prohibition of war propaganda.⁵¹

Universal Declaration of Human Rights (10 December 1948)

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

International Covenant on Civil and Political Rights (ICCPR) (Ratified by the Soviet Union 16 October 1973)

Article 19

- 1. Everyone shall have the right to hold opinions without interference.*
- 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
- 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*

(a) For respect of the rights or reputations of others.

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

- 1. Any propaganda for war shall be prohibited by law.*
- 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*

Helsinki Final Act (1st August 1975)

The participating States committed themselves, inter alia, to promote in their relations with one another “a climate of confidence and respect among peoples consonant with their duty to refrain from propaganda for wars of aggression” against another participating State. Moreover, this has been considered a measure related to giving effect to the Decalogue of Principles Guiding Relations between participating States.

⁵¹ In their press release of the 4 March 2022, the International Federation of Journalists and the European Federation of Journalists argue that the censorship against foreign media outlets and journalists in Russia were taken as a reaction to the decision of the EC to prohibit RT and Sputnik. This is supposed to weaken the Western position in its policy of defending freedom of expression. This argument seems to neglect the fact that RT and Sputnik were promoting the official narrative of the Kremlin on the Russian aggression, being than an infringement to the article 20 of the ICCPR.

(b) Co-operation in the Field of Information

- To encourage co-operation in the field of information on the basis of short or long term agreements or arrangements. In particular: they will favour increased co-operation among mass media organizations, including press agencies, as well as among publishing houses and organizations: they will favour co-operation among public or private, national or international radio and television organizations, in particular through the exchange of both live and recorded radio and television programmes, and through the joint production and the broadcasting and distribution of such programmes; they will encourage meetings and contacts both between journalists organizations and between journalists from the participating States; they will view favourably the possibilities of arrangements between periodical publications as well as between newspapers from the participating States, for the purpose of exchanging and publishing articles; they will encourage the exchange of technical information as well as the organization of joint research and meetings devoted to the exchange of experience and views between experts in the field of the press, radio and television. (c) Improvement of Working Conditions for Journalists The participating States, desiring to improve the conditions under which journalists from one participating State exercise their profession in another participating State, intend in particular to:

- examine in a favourable spirit and within a suitable and reasonable time scale requests from journalists for visas; - grant to permanently accredited journalists of the participating States, on the basis of arrangements, multiple entry and exit visas for specified periods; - facilitate the issue to accredited journalists of the participating States of permits for stay in their country of temporary residence and, if and when these are necessary, of other official papers which it is appropriate for them to have; - ease, on a basis of reciprocity, procedures for arranging travel by journalists of the participating States in the country where they are exercising their profession, and to provide progressively greater opportunities for such travel, subject to the observance of regulations relating to the existence of areas closed for security reasons, - ensure that requests by such journalists for such travel receive, in so far as possible, an expeditious response, taking into account the time scale of the request;

- increase the opportunities for journalists of the participating States to communicate personally with their sources, including organizations and official institutions; 45 - grant to journalists of the participating States the right to import, subject only to its being taken out again, the technical equipment (photographic, cinematographic, tape recorder, radio and television) necessary for the exercise of their profession)

- enable journalists of the other participating States, whether permanently or temporarily accredited, to transmit completely, normally and rapidly by means recognized by the participating States to the information organs which they represent, the results of their professional activity, including tape recordings and undeveloped film, for the purpose of publication or of broadcasting on the radio or television. The participating States reaffirm that the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them. If an accredited journalist is expelled, he will be informed of the reasons for this act and may submit an application for re-examination of his case.

Various documents by the OSCE have reiterated the spirit of the Helsinki Final Act⁵² :

Concluding Document of the OSCE Vienna Meeting

In their 1989 Concluding Document of the Vienna Meeting, the participating States recalled that the legitimate pursuit of journalists' professional activity would neither render them liable to expulsion nor otherwise penalize them. They agreed that authorities should refrain from taking restrictive measures such as withdrawing a journalist's accreditation or expelling him or her because of the content of the reporting of the journalist or of his or her information media. They also stated to ensure in practice that persons belonging to national minorities or regional cultures on their territories could disseminate, have access to, and exchange information in their mother tongue.

Moscow Document

In the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE of 1991, the participating States reaffirmed the right of the media to collect, report and disseminate information, news and opinions. They also considered that the print and broadcast media in their territory should enjoy unrestricted access to foreign news and information services. Furthermore, they stated that they would, in conformity with international standards regarding the freedom of expression, take no measures aimed at barring journalists from the legitimate exercise of their profession other than those strictly required by the exigencies of the situation. They reaffirmed the public's right to enjoy similar freedom to receive and impart information and ideas without interference by public authority regardless of frontiers, including through foreign publications and foreign broadcasts. The participating States made it clear that any restriction in the exercise of this right should be prescribed by law and in accordance with international standards. They also vowed not to discriminate against independent media in affording access to information, material and facilities.

Istanbul Charter In the Istanbul Charter for European Security of 1999, that concluded the Sixth OSCE Summit of Heads of State or Government, the participating States committed themselves to take all necessary steps to ensure the basic conditions for free and independent media and unimpeded transborder and intra-State flow of information, which they stated to consider to be an essential component of any democratic, free and open society.

Astana Commemorative Declaration In the Astana Commemorative Declaration: Towards a Security Community of 2010, that concluded the OSCE Summit of Heads of State or Government, the participating States reaffirmed that the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.

OSCE Ministerial Council Decision on Safety of Journalists In their Decision Nr. 3, Safety of Journalists, of 7 December 2018, the Ministerial Council noted with concern that the use of undue restrictive measures against journalists can affect their safety, and prevents them from providing information to the public, and thus negatively affects the exercise of the right to freedom of expression. The Ministerial Council called upon the participating States to fully

⁵² Communiqué by the OSCE Representative on Freedom of the Media on the right of the media to freely collect, report and disseminate information, news and opinions, regardless of frontiers, 3 May 2021

implement all OSCE commitments and their international obligations related to freedom of expression and media freedom, including by respecting, promoting and protecting the freedom to seek, receive and impart information regardless of frontiers; and to bring their laws, policies and practices, pertaining to media freedom, fully in compliance with their international obligations and commitments and to review and, where necessary, repeal or amend them so that they do not limit the ability of journalists to perform their work independently and without undue interference.

European Convention for the Protection of Human Rights (Ratified by the Russian Federation in May 1998 and of which the Federation will be Party till 16 September 2022)⁵³

Article 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

European Convention on Transfrontier Television (signed by the Russian Federation the 4 October 1996)⁵⁴

The Preamble of the Convention defines very clearly the adhesion to the principle of free flow of information:

“The member States of the Council of Europe and the other States party to the European Cultural Convention, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members, for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that the dignity and equal worth of every human being constitute fundamental elements of those principles;

Considering that the freedom of expression and information, as embodied in Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, constitutes one of the essential principles of a democratic society and one of the basic conditions for its progress and for the development of every human being;

Reaffirming their commitment to the principles of the free flow of information and ideas and the independence of broadcasters, which constitute an indispensable basis for their

⁵³ Russia ceases to be a Party to the European Convention on Human Rights on 16 September 2022, Committee of Ministers; Council of Europe press release, 22 March 2022

⁵⁴ The Russian Federation has signed the Convention but has never ratified it and the Signature considered to be suspended as from 16 March 2022

broadcasting policy; Affirming the importance of broadcasting for the development of culture and the free formation of opinions in conditions safeguarding pluralism and equality of opportunity among all democratic groups and political parties;

Convinced that the continued development of information and communication technology should serve to further the right, regardless of frontiers, to express, to seek, to receive and to impart information and ideas whatever their source; (...) “

The Russian Federation is not directly bind by the Convention has it has signed it but not ratified. However, the Russian Federation is part of the Amended Convention of the European Telecommunication Satellite Operation.⁵⁵ and this Amended Convention make explicit reference to, the Convention on Transfrontier Television of which the provisions should be respected by Eutelsat S.A.

The primary purpose of EUTELSAT is to ensure that the Basic Principles set forth in this Article are observed by the Company Eutelsat S.A. namely : i) public service/universal service obligations: such obligations apply to space segment and to its use to provide services connected to the public switched telephone network; audiovisual services and future services will be provided in conformity with the relevant national regulations and international agreements, in particular the provisions of the European Convention on Transfrontier Television, taking account of those applying to the universal service concept and the information society.

⁵⁵ The amendments to the original Convention establishing this Amended Convention, were approved by the EUTELSAT Assembly of Parties in May 1999. They were applied on an accelerated (provisional) basis as from 2 July 2001 in accordance with a Resolution to this effect adopted by the EUTELSAT Assembly of Parties also in May 1999. It entered into force on a definitive basis on 28 November 2002.

<https://www.eutelsatigo.int/en/wp-content/uploads/sites/2/2014/12/E-Amended-Convention-281102.pdf>

3. Reaction of international institutions - The calls for a support to the Russian civil society

OSCE Representative on Freedom of the Media

On 3 March 2022, the OSCE Representative on Freedom of the Media, Teresa Ribeiro, made the following statement:

"I remain extremely alarmed at the continuing denigration, stigmatization, intimidation and threats towards the media and journalists by the Russian public authorities. These practices are in strong breach of OSCE commitments on freedom of expression and media freedom and must stop," Ribeiro said. "I again call on the Russian authorities to fully implement all their relevant international obligations and commitments, including by respecting, promoting and protecting the freedom to seek, receive and impart information regardless of frontiers, as well as by ensuring a safe working environment for journalists.

"Taken together, these measures lead to an establishment of a state monopoly on information in the Russian Federation, a very sad development for media freedom in the country and is going against relevant OSCE commitments".

Commissioner for Human Rights of the Council of Europe

On the 7 March 2022, the Commissioner for Human Rights of the Council of Europe, published a statement « Russian authorities should stop the unprecedented crackdown on freedoms of expression, assembly and association in the country » The statement refers to arrests of protesters but also to restriction in the field of media:

Dozens of independent and foreign media outlets have been subjected to censorship by either being banned, blocked or forced to delete any information that does not come from official sources. While some media outlets decided to stop reporting about Russia's military attack against Ukraine, others, including the independent TV channel "Dozhd" and the oldest Russian independent radio station "Echo of Moscow", decided to stop broadcasting altogether.

The Russian parliament has rushed to adopt several draconian provisions criminalising the spread of "fake information" about the acts of the Russian army, its "discreditation", and calls for public protests, with sanctions of up to 15 years in prison and hefty fines – leaving no space for free speech and opinion on the war.

Immediately after the adoption on 4 March of these legislative provisions, the law enforcement authorities started implementing them vigorously against ordinary people, activists, journalists, human rights defenders and civil society groups all over the country, sanctioning any form of disagreement with official discourse. Some human rights NGOs, like Memorial and Civil Assistance Committee, "Pskovskaya Gubernia" newspaper and a number of human rights defenders – who have spoken out against the war - have been subjected to unjustified raids and searches without respect for basic legal safeguards. This has a huge and continuous chilling effect on the human rights situation in the country, prompting hundreds of journalists, human rights defenders and civil society activists to seek refuge abroad.

Dunja Mijatović made second statement the 24 March 2022

« During her mission to the Czech Republic carried out as part of her work on the humanitarian and human rights consequences of the war in Ukraine, the Commissioner also met with a large number of civil society actors, including Russian and Belarusian human rights defenders and journalists who had to leave their country to escape reprisals.

She took note of their concerns relating to personal safety and the ability to continue carrying out their work from abroad and discussed the important role that Council of Europe member states could play in ensuring an enabling environment for their legitimate activities.

The Commissioner expressed appreciation for their courageous work and stressed that the support to human rights defenders and journalists, including those from the Russian Federation and Belarus, will remain one of the priorities for her future action, in accordance with the Committee of Ministers' Resolution on legal and financial consequences of the cessation of membership of the Russian Federation in the Council of Europe. »

Special Rapporteurs of the United Nations' Human Rights Council

In addressing recent legislative amendments, three Special Rapporteurs of the United Nations' Human Rights Council have observed that “[w]hile the government claims that the purpose of the new legislation is to protect the ‘truth’ about what it euphemistically calls a ‘special military operation’ in Ukraine, in reality the law places Russia under a total information blackout on the war and in so doing gives an official seal of approval to disinformation and misinformation.”⁵⁶ The Special Rapporteurs explain that “[b]y restricting reporting and blocking access to information online the authorities are not only choking the last vestiges of independent, pluralistic media in Russia, but they are also depriving the population of their right to access diverse news and views at this critical time when millions of Russians legitimately want to know more about the situation in Ukraine.”⁵⁷

The black-out created by the new media policy implemented by the Russian authorities has led to calls for support by European institutions and national governments to support the Russian civil society.

International Federation Journalists and European Federation of Journalists

EU Must Support Independent Russian Journalists – 4 March 2022

The IFJ and EFJ deplore the spiral of censorship in the European media landscape. In response to the EU censorship of the Kremlin-backed channels RT and Sputnik, the Russian authorities are closing down independent media outlets in Russia. The IFJ and EFJ call on the EU to support independent Russian journalists and media outlets that continue to operate in an increasingly repressive environment.

(...)

"The European Union, which has contributed to this new wave of repression by banning RT and Sputnik, has a responsibility to assist independent Russian media and journalists," said IFJ General Secretary Anthony Bellanger.

⁵⁶ UN rights experts raise alarm over Russia's 'choking' media clampdown at home, *UN News* (Mar. 11, 2022), <https://news.un.org/en/story/2022/03/1113762>.

⁵⁷ Ibid.

"The EU must facilitate the granting of visas, provide for the evacuation of those who want to leave Russia, and assist the media who wish to relocate abroad. Europe must assist Russian journalists who are facing brutal repression," added EFJ General Secretary Ricardo Gutiérrez.

4. A possible path to reach part of the Russian TV audience: liberating the Eutelsat 36E satellites from the Russian TV packages NTV Plus and Tri kolor in order to provide a diversified and pluralist package of free-to-air TV channels

4.1. The role of Eutelsat in the transmission of Russian television channels within Russia

Call for solidarity with the Russian civil society and media professionals are useful. However, Europe could have a significant action to contribute to the limitation of the Russian war propaganda in Russia itself and to provide the infrastructure to provide news and opinion to part of the Russian population by not allowing one of its flagship companies to be partner of this war propaganda.

This could be obtained by banning from Eutelsat satellites the NTV Plus and Tri kolor packages of TV channels. This would liberate capacities for broadcasting in a free-to-air mode (FTA) a package of Western channels in Russian, subtitled in Russian or in international languages

4.2. Reception of TV channels in the Russian Federation. Some basic data

There is no official data published by the Russian Federation on the modalities of TV reception. The data available are mainly those provided by the European Audiovisual Observatory, a partial agreement of the Council of Europe.⁵⁸

TV reception in the Russian Federation (Primary reception only)

	Households (end 2020 - in thousands)	Penetration (end 2020 - in % of TV households)
Cable households	21 509	37,2%
<i>Of which digital</i>	2 547	
Satellite households	17 469	30,2%
<i>Of which digital</i>	17 469	
Satellite subscribers	17 469	
IPTV households	9 880	17,1%
Terrestrial households	9 026	15,6%
<i>Of which DTT</i>	9 026	
DTT subscribers	0	
Total TV households	57 884	100,0%
<i>Of which digital</i>	38 922	67,2%
Total pay-TV subscribers	48 858	84,4%

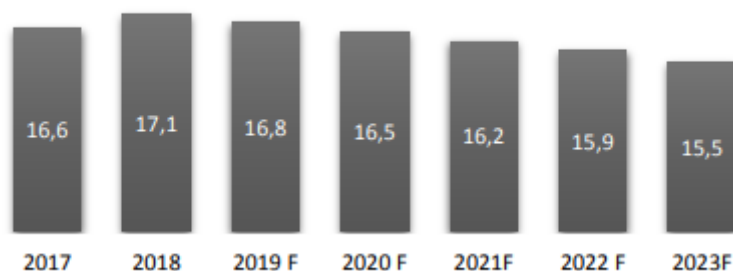
Source: Ampere / European Audiovisual Observatory Yearbook 2021

⁵⁸ The Russian Federation is a founding member of the Observatory since 1992 and was represented in its Executive Council by the Federal Agency for Press and Mass Communication (Rospechat). Exclusion of the Russian Federation from the Observatory was decided by the Committee of Ministers of the Council of Europe the 23 March 2022

In a report published in 2019 by the European Audiovisual Observatory, the specialist consultant J'Son and Partner Consulting was forecasting a decline of pay-TV through satellite.⁵⁹ This hypothesis was based on the growth of the free offer of channels through DTT and the development of IPTV distribution.

According to the expert Jim Philipoff, if only 30 % of the Russian households subscribe to satellite pay-TV, the basis of satellite dishes still operational in Russian households should be superior (around 50% of TVHH and could be targeted by free-to-air satellite channels.)

Figure 10 Satellite TV subscriber base change forecast, mln. users



4.3. The collaboration between EUTELSAT and RSCC

The collaboration between EUTELSAT and Russian Satellite Communications Company (RSCC) started in 1994 when the Minister of Communications, Vladimir Bulgak, signed the agreement marking the Russian Federation's membership of the EUTELSAT organisation. In the Russian Federation, RSCC provides direct broadcasting services for the NTV-Plus and Tri kolor TV platforms and distribution services for regional TV channels using the Russian beam of the Eutelsat 36A and B satellites at 36° East and the Express AT-1 satellite at 56° East. RSCC also provides monitoring and control services for Eutelsat satellites located in the eastern part of the geostationary orbit. Eutelsat provides communications and broadcasting services in Europe and the Middle East, drawing on capacity of the Express-AM22/SESAT 2 satellite at 53° East. In 2014 was launched Russian Express-AM6/SESAT 3 satellite to replace the Express-AM22/SESAT 2 on the European, Middle East and African markets. Eutelsat and RSCC had also joint work on building up the 140° East orbital position for DTH services; and the preparation for the combined use of the first Russian high throughput satellite, Express AMU1/Eutelsat 36C, launched to 36° East in late 2015⁶⁰

Three orbital positions

The Eutelsat/RSCC alliance allow the two partners to provides Tv satellite services on three leading orbital positions: 36°East, 56° East and 140° East⁶¹

- 36° East (Eutelsat 36 B and Eutelsat 36 C)

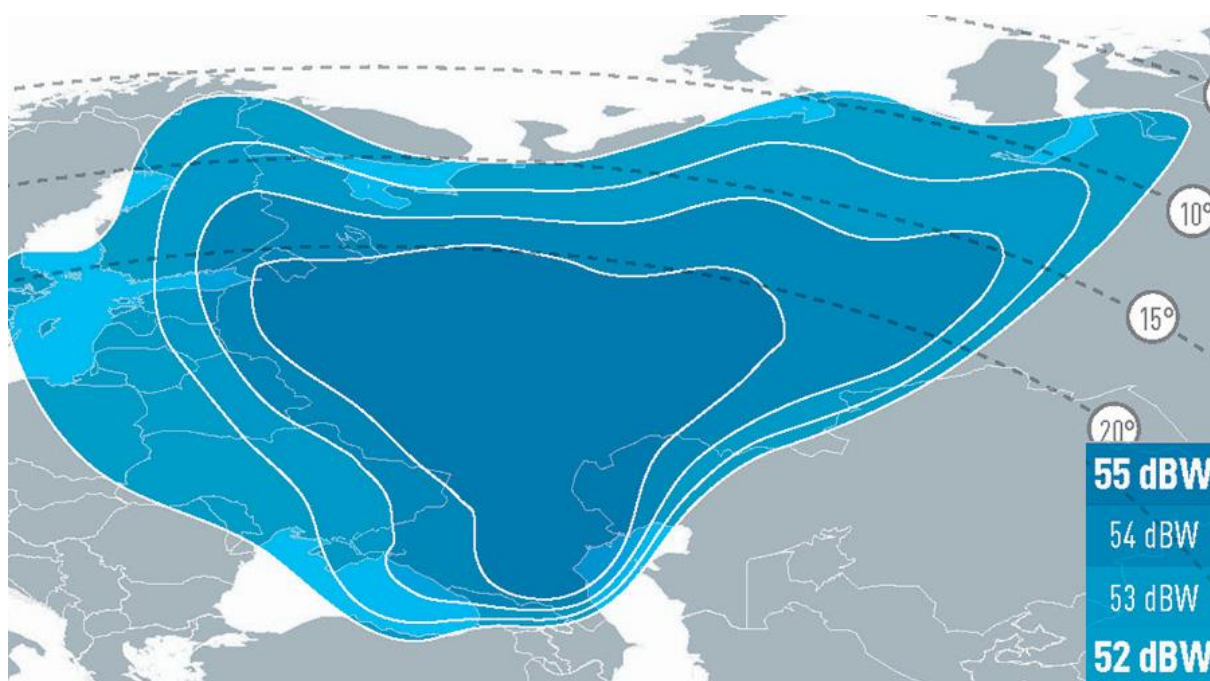
⁵⁹ J'Son and Partners Consulting, *Russian Pay TV and SVOD: Is Cord-cutting Really Happening?* European Audiovisual Observatory (Council of Europe), Strasbourg, 2019

⁶⁰ "Russia's RSCC and Eutelsat mark 20 years of cooperation", RSCC Press Release, 27 August 2014.

⁶¹ Information from page "Russia and CIS" on Eutelsat website, consulted as at 23 March 2022, <https://www.eutelsat.com/en/satellite-communication-services/broadcasting-solutions-russia-cis.html>

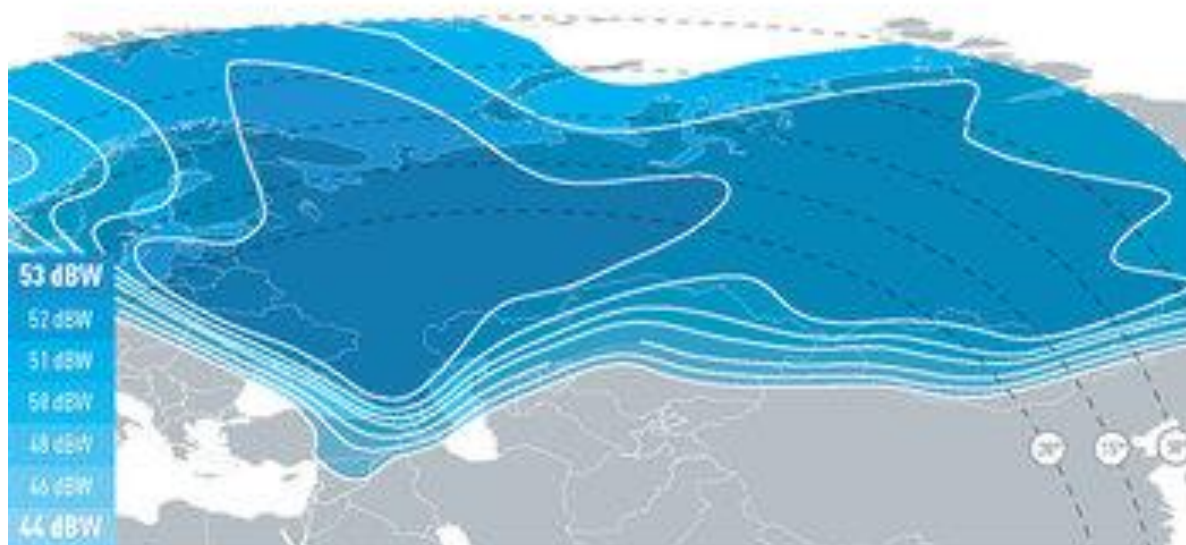
Reaching 50% of TV homes across Russia and the CIS, the Eutelsat 36B and Eutelsat 36C satellites at 36° East form the region's leading broadcast neighbourhood. Over 12 million Direct-to-Home antennas in Russia are already pointed at this leading video neighbourhood, subscribing to the premium NTV+ platform or Tri kolor, one of the world's fastest-growing TV platforms. Around 600 TV channels were broadcasting to the region in 2020. Eutelsat 36C, co-positioned with the multi-beam EUTELSAT 36B satellite, is a state-of-the-art, high-capacity satellite which is transforming the broadcasting infrastructure at 36° East into a broader system to support more television services and IP-based applications to match the development of Russia's digital entertainment market.

The reach of the two satellites is 25,6 million households in Russia and CIS. A total of 600 TV channels, 100 in HD and already 10 in UHD. EUTELSAT 36C offers up to 55 dBW for TV services and IP-based applications. The coverage is optimized for the coverage of Russia, the CIS and Central Asia. Key clients are NTV Plus and Tri kolor TV.



- 56° East (Express AT1)

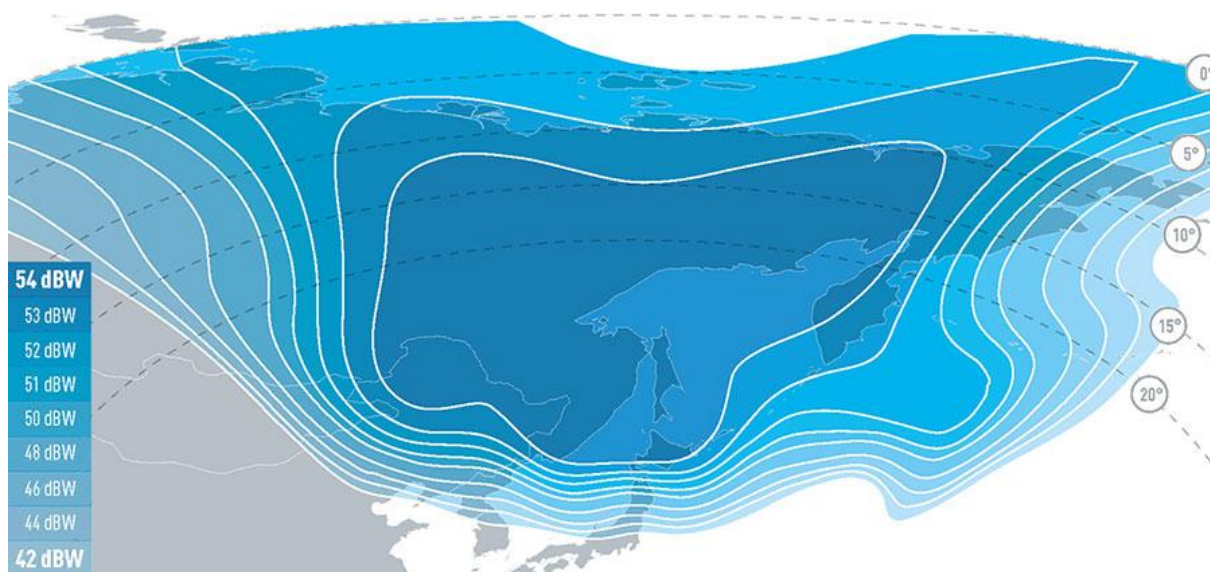
Express AT1, at 56° East, complements 36° East by adding to the European part of the Russian coverage and furthering resources over Siberia. 350 TV channels, 50 in HD and 3 in UHD. Owned and operated by RSCC, Express AT1 offers a powerful coverage up to 54 dBW. Eutelsat has contracted a 15-year lease for transponders across Express AT1 which will principally serve the Tri kolor TV and NTV Plus TV platforms.



- 140° East (Express AT2)

Supporting the expansion of digital services in Far East Russia. Owned and operated by RSCC, the satellite complements coverage of the European part of Russia provided by the Eutelsat 36B and 36C satellites located at 36° East.

Eutelsat has contracted a 15-year lease for transponders across Express AT2 that principally serve the Tri kolor TV and NTV Plus TV platforms.



4.4. The Russian packagers of satellite TV

4 Russian companies are providing TV channels packages through Eutelsat satellites: NTV Plus, Tri kolor, MTS and Orion Express. While NTV Plus and Tri kolor packages are mainly transmitted through the Eutelsat 36E satellites, MTS package is transmitted through ABS (Asian Broadcasting Satellites) and Orion Express / Telekarta is mainly transmitted through Horizons 2 & Intelsat 15 at 85.2°E

Satellite operators are subject to must-carry rule: The status of a national satellite operator with mandatory public TV channels was introduced, requiring it to indefinitely provide free broadcasting of channels of two multiplexes in areas not covered by digital cable TV. Thus, commercial operators in Russia are legally obligated to ensure free access to 20 basic TV channels for households in regions where no digital broadcast TV is available.⁶²

- NTV Plus

NTV-PLYUS, OOO

d. 125 str. 1 sektsiya 10, shosse Varshavskoe

Moscow

Moscow, 117587 Russian Federation

NTV plus is a satellite package operated by NTV, a subsidiary of the State holding Gazprom. There are more than 375 channels on the operator's satellite platform. Broadcasting is carried out from satellites Eutelsat 36B, Express AMU1 (36 degrees East), Express AT1 (56 degrees East), Express-AT2 (140 degrees East) throughout Russia. More than 210 TV channels are available on the NTV-PLUS online platform in 8 thematic packages and a special "International" package, as well as VOD libraries PREMIER, AMEDIATEKA Home of HBO, Megogo, START, FOXNOW and an adult film library. Viewing is possible on the ntvplus.tv website, on iOS and Android mobile devices, in applications for Android TV and Apple TV, TVs with the Smart TV function and on conventional TVs using an OTT set-top box.⁶³

NTV-Plus D.O.O. is a subsidiary of Gazprom Media Holding. Since March 2020, the CEO of Gazprom Media Holding is Aleksandr Zharov, who was the head of the regulatory agency Roskomnadzor. from 2012. In April 2018, the United States imposed sanctions on him and 23 other Russian nationals.⁶⁴ He is also since 31 March 2022 on the list of Russian sanctioned personalities published by the UK Foreign Secretary.⁶⁵

⁶² J'Son and Partners Consulting, op.cit.

⁶³ From the company website <https://www.ntv-plus.ru> and articles "NTV" and "NTV plus" in Wikipedia.en

⁶⁴ Ukraine-/Russia-related Designations and Identification Update; Syria Designations; Kingpin Act Designations; Issuance of Ukraine/Russia-related General Licenses 12 and 13; Publication of New FAQs and Updated FAQ, US Department of the Treasury, 4 June 2019

⁶⁵ "Foreign Secretary announces sanctions on Putin's propaganda", Press release, Foreign Secretary, 31st March 2022. <https://www.gov.uk/government/news/foreign-secretary-announces-sanctions-on-putins-propaganda--2>. Other media personalities sanctioned include Alexey Nikolov, Managing Director of RT, Anton Anisimov, Head of

Short history

The channel NTV was launched in October 1993 as a subsidiary of Vladimir Gusinsky's company Media-Most. On 11 May 2000, tax police, backed by officers from the general prosecutor's office and the FSB, stormed the Moscow headquarters of NTV and Media-Most and searched the premises for 12 hours. Critics considered this move politically motivated, as NTV voiced opposition to Putin since his presidential electoral campaign. Putin denied any involvement. On 26 January 2001, Gazprom Media, subsidiary of the majority State owned Gazprom; announced that it had acquired a controlling stake of 46% in NTV. The voting rights of a 19% stake held by Media-Most was frozen by a court decision. Putin met with leading NTV journalists on 29 January, but the meeting changed nothing. The parties reasserted their positions; Putin denied any involvement and said that he could not interfere with the prosecutors and courts. Nevertheless, since this moment, NTV, who used to be considered a critical voice become considered by most of the observers as a Kremlin outlet.

1996 - First broadcasts of NTV-Plus appeared on September 1, 1996

1997 - Since early in the year the channels were broadcast in encoded form.

1998 - On November 22 NTV-Plus started satellite TV broadcasting.

1999 - In February NTV-Plus switched from an analogue to digital broadcasting system allowing the expansion of the number of channels from five to fifty. In December NTV-Plus started re-broadcasting digital channels in two languages.

2000 - On May 25 another Eutelsat-W4 satellite was put into orbit allowing the expansion of the broadcasting area. 2005 - Beginning of Dolby Digital 5.1 broadcasting

2006 - Broadcasting begins in Ukraine territory but the line-up was reduced since 2015.⁶⁶ The commercialization is now mainly done through the "grey market" of decoders 2007 - Broadcasting in HDTV started

2014 - The NTV-PLUS company began broadcasting in the eastern part of the Russian Federation from the new Express-AT1 satellite.

2016 - In February, the NTV-PLUS TV channels, which were broadcast from the Eutelsat 36A satellite, were transferred to the new Eutelsat 36C satellite.

Broadcasting in 4K/UHD started

2017 - In January, NTV-PLUS received the right to broadcast using eight transponders of the Express-AT2 satellite with a positioning point of 140 degrees east longitude and three transponders of the Express-AT1 satellite with a standing point of 56 degrees east longitude. This made it possible to expand the content offer for Siberian subscribers, as well as to begin preparations for the start of broadcasting in the Far East

Sputnik International Broadcasting and Rossya anchorman Sergey Brilev. Julian Clover, Russian media outlets face new UK sanctions, *Broadband TV News* 1st April 2022

⁶⁶ Christian Dziadul, "NTV-Plus reduces Ukrainian offer", *Broadband TV News*, 11 March 2015.

In March, NTV-PLUS began broadcasting throughout the Far East. The first channel on the NTV-PLUS platform in the Ultra HD standard became available to subscribers of Siberia and the Far East.

In April, NTV-PLUS began broadcasting in Ultra HD throughout Russia, becoming the first federal UHD operator. The Basic package includes two UHD TV channels – FASHION ONE (4K) and HOME 4K. The Festival 4K channel was later added.

In May, the operator introduced an updated NTV-PLUS online television, available on any mobile device. More than 140 diverse thematic TV channels have become available on any mobile device through the NTV-PLUS TV service.

2018 - In February, NTV-PLUS satellite subscribers were offered the Online TV (Multiscreen) service, which allowed them to watch TV channels included in their satellite subscription on any digital device.

Online TV NTV-PLUS can be watched abroad. The services of the digital television operator NTV-PLUS became available outside of Russia. Subscribers of the NTV-PLUS TV service can now watch the new international package abroad.

2020 - NTV-PLUS presented a new product – an OTT set-top box based on the Android operating system. Now the operator's subscribers can watch TV channels not only on any digital devices, but also on any TV without installing and configuring an antenna - with the help of the new Vermax 4K IPTV OTT set-top box, an ordinary TV turns into a TV with the Smart TV function.

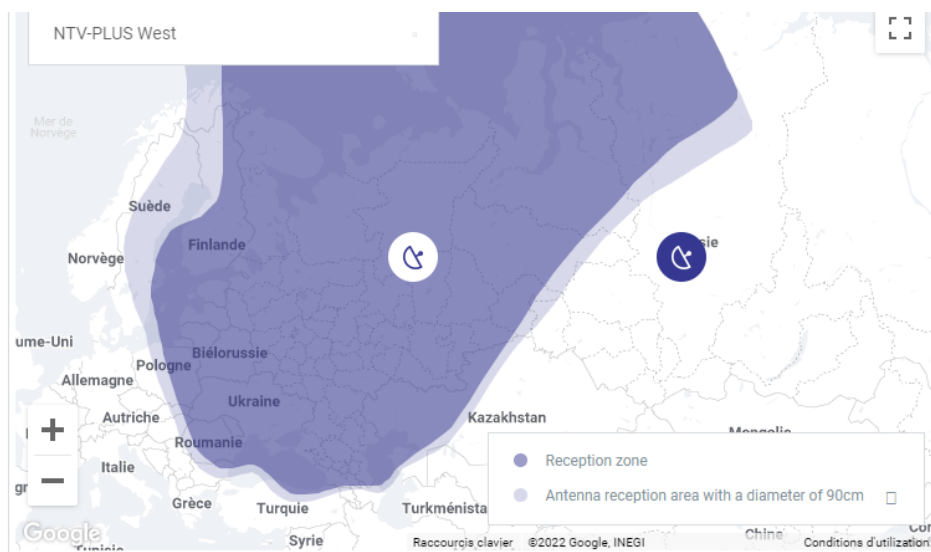
NTV-PLUS online television became available to subscribers in the CIS countries.

2021 - Launch of a package of radio Subscribers of NTV-Plus can use a native mobile app to watch TV channels on televisions and mobile devices. This online video service is also available to non-subscribing viewers. In the first quarter of 2018 ARPU on the platform was more than 420 rubbles (5.7 EUR) — 50 rubbles (0.7 EUR) higher than for the satellite segment. The total number of users of the service exceeded 100,000, with more than 50,000 of them paying for service.

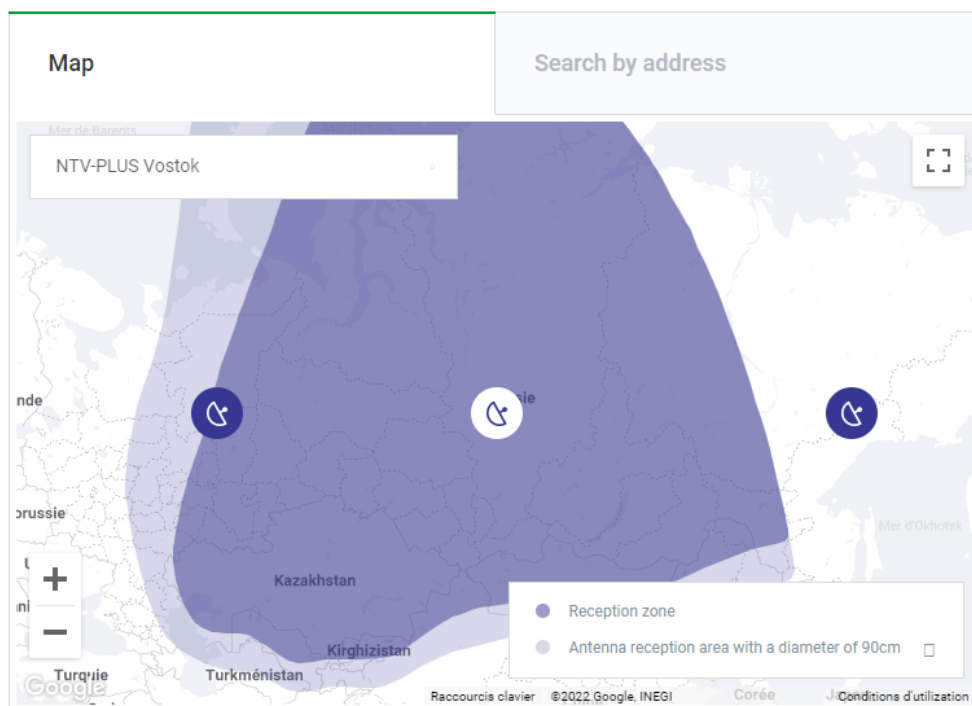
According to the UK consultant Ampere, the number of NTV+ DTH subscribers at the end of 2021 was 896 000.

The offer : 3 coverage area and 15 commercial formula

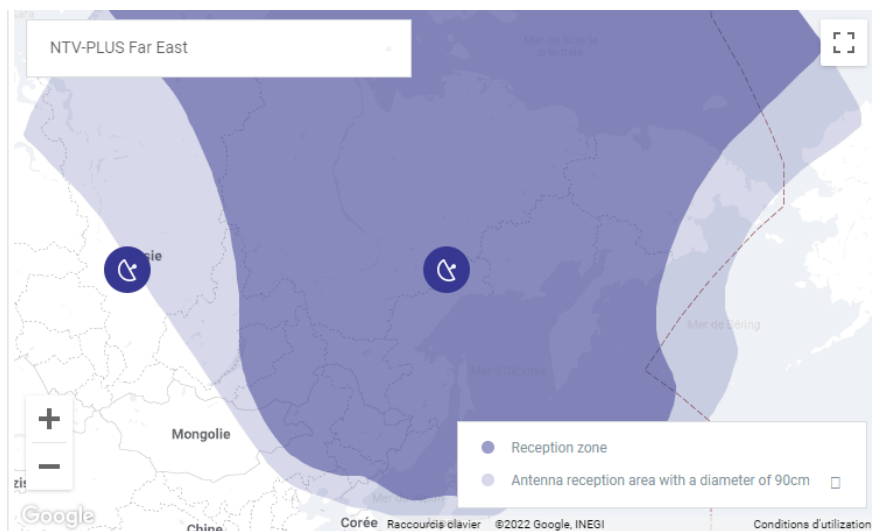
- NTV Plus West (through Eutelsat 36 E)



- NTV Plus Vostok



- NTV Plus Far East



Various commercial formula are proposed to the public:

- *A basic Online service*: 168 channels as of 1 March 2022, reduced to 156 channels as at 2 March 2022 (199 RUB / months) (available through AppStore, Google Play, ntvplus.tv, android.tv, smart.tv or through the NTV-Plus satellite platform)
- *Economical*: Package "Economical" - the main package, available for connection only to new subscribers upon registration of the contract.
- *Amedia*: 3 channels with premieres from US Studios
- *Kino Plus*: 22 film channels
- *Sport Plus*: 9 sport channels
- *Supersport*: 11 sport channels
- *Informative*: 7 documentary channels (including Discovery, NGC)
- *Children's*: 11 children channels
- *Entertaining*: 9 entertainment channels
- *Musical*: 11 music channels
- *Night*: 7 channels for adults
- *Viasat*: 6 channels provided by Viasat World Ltd⁶⁷
- *VIP*: 5 channels provided by Viasat World Ltd
- *Movie set up!*: 4 film channels
- *Match Prime*: 2 sports channels

The Russian channels include generalist channels (such as Perviy Kanal/Channel 1, Rossiya 1, Mir, NTV, Domashnyi, Ren TV, Sarafan, TNT, TNV Planeta, TV Centr, TV Rus), news channels (Izvetia TV, Rossiya 24, RT News), regional channels (GTRK GROZNYJ, Moskva 24, Moskva Telekanal, Qazaq TV, TV Center Ural,...and numerous theme channels, often provided or licensed by US or European media groups.

⁶⁷ According to the National Council of Radio and television Broadcasting of Ukraine, Viasat World Ltd is now under Russian control.

As at 29 March 2022, there were still 39 channels owned or licensed by US or European media groups in the NTV Plus line-up. In continuing to do “business as usual” with the Gazprom subsidiary, AMC Networks (US), Comcast (US), Disney (US), LFP Inc. (US), ViacomCBS (US), WorldFashion Channel (US) Groupe Arnault (FR), Groupe M6 (FR), Vivendi (FR), Marc Dorcel Netherlands (NL), Mindgeek Holding (LU), Viasat Worldwide Ltd (GB) contribute to the illusion of media pluralism within Russia.

The following European or US news channels used to be in offer by NTV Plus in January 2022 but has disappeared in the last weeks.

- France 24 (in English and French) The channel has disappeared from the platform.
- Euronews (in Russian) The channel was excluded from the package as at 21 March after a decision of the Russian authorities
- BBC World News Europe
- CNN

As already indicated, on its website, NTV Plus indicates that the disappearance of those channels is the result of a decision of the rightsholders.

Foreign owned channels in NTV-Plyus line-up as at 3 April 2022

Channels still listed in the offer of NTV Plus website and tracked on Lyngsat

Name of channel	Genre	Broadcasting Company	Final Owner	Country of final owner
Extreme Sports	Sports		AMC Networks International AMC Networks Inc., ViacomCBS Inc.	US
CBS Reality (EMEA)	Entertainment	CBS AMC Networks EMEA Channels Partnership		US
Travel and Adventure	Travel	DELTA TELEVISION	DELTA-M	LV ?
Disney Channel (Russian)	Children	7TV	Disney (The Walt Disney Company)	US
FOX (Russia)	Film and TV fiction	DIONA	Disney (The Walt Disney Company)	US
National Geographic Wild	Documentary	BIANKA-MEDIA	Disney (The Walt Disney Company)	US
NGC - National Geographic Channel (Russia)	Documentary	BIANKA-MEDIA	Disney (The Walt Disney Company) Les Echos (Groupe Arnault) / Vivendi	US
Mezzo	Music	MEZZO	Les Echos (Groupe Arnault) / Vivendi	FR
Mezzo Life	Music	MEZZO	Vivendi	FR
Barely Legal	Porn	Sapphire Media International BV	LFP Inc.	US
Blue Hustler	Porn	Sapphire Media International BV	LFP Inc.	US
Playboy TV	Porn	Marc Dorcel Netherlands B.V.	Marc Dorcel Netherlands B.V.	NL
History (Russia)	Entertainment	MEDIA BROADCASTING GROUP	Comcast Corporation	US
History 2 (Russia)	Documentary	MEDIA BROADCASTING GROUP	Comcast Corporation	US
Brazzers	Porn	STV International B.V.	Mindgeek Holding	LU
Da Vinci Kids	Cultural / Educational	VIASAT GLOBAL	Viasat World Ltd	GB
TV1000 (Russia)	Film and TV fiction	FELISTA	Viasat World Ltd	GB
TV1000 Action (Russia)	Film and TV fiction	VIASAT GLOBAL	Viasat World Ltd	GB
TV1000 Russian Kino (Russia)	Film and TV fiction	VIASAT HOLDING	Viasat World Ltd	GB
Viasat Explore (Russia)	Documentary	FELISTA	Viasat World Ltd	GB
Viasat History (Russian)	Documentary	VIASAT HOLDING	Viasat World Ltd	GB
Viasat Nature (Russia)	Documentary	Viasat Media	Viasat World Ltd	GB
Viasat Nature/History HD	Documentary	Viasat Media	Viasat World Ltd	GB

Viasat Sport (Russia)	Sport	VIASAT GLOBAL	Viasat World Ltd	GB
VIP Comedy (Russia)	Film and TV fiction	VIASAT GLOBAL	Viasat World Ltd	GB
VIP Megahit (Russia)	Film and TV fiction	VIASAT GLOBAL	Viasat World Ltd	GB
VIP Premiere (Russia)	Film and TV fiction	VIASAT GLOBAL	Viasat World Ltd	GB
.Black	Film and TV fiction	Networks Vostok	Viasat World Ltd	GB
Gulli Girl (version in Russian)	Children	UNIVERKIDS	Groupe M6	FR
Tiji (Russian)	Children	UNIVERKIDS	Groupe M6	FR
MTV (Russia)	Music	MTV NETWORKS ENTERTAINMENT VOSTOK Viacom International Media Networks Czech s.r.o. (MTV NETWORKS s.r.o.)	ViacomCBS inc.	US
MTV 00s	Music	Viacom International Media Networks Czech s.r.o. (MTV NETWORKS s.r.o.)	ViacomCBS inc.	US
MTV 80	Music	Viacom International Media Networks Czech s.r.o. (MTV NETWORKS s.r.o.)	ViacomCBS inc.	US
MTV 90	Music	Viacom International Media Networks Czech s.r.o. (MTV NETWORKS s.r.o.)	ViacomCBS inc.	US
MTV Live International	Music	MTV NETWORKS ENTERTAINMENT VOSTOK	ViacomCBS inc.	US
Nick Junior (Russia & CIS)	Children	VIMN NETHERLANDS B.V.	ViacomCBS Inc.	US
Nick Toons EE, LV & LT (Russian)	Children	VIMN NETHERLANDS B.V.	ViacomCBS Inc.	US
Nickelodeon (Russian)	Children	MTV NETWORKS ENTERTAINMENT VOSTOK	ViacomCBS inc.	US
World Fashion Channel (Russian)	Lifestyle	WORLD FASHION CHANNEL	WORLD FASHION CHANNEL	US

Source: Denis Diderot Committee on data from NTV Plus, MAVISE database, trade press and : <https://www.lyngsat.com/packages/NTV-Plus.htm>

- *Trikolor TV*

Trikolor TV is a TV satellite packager launched in 2005 by National Satellite Company, NJSC, established in Saint-Petersbourg. On August 15, 2018 NJSC National Satellite Company, the largest digital television operator in Russia, began operating under the Trikolor brand with an updated logo. Linear television is part of the Trikolor brand, which now combines several services

NJSC National Satellite Company
Moscovsky Pr. 139, Section 1, Building 1, Office 10-H
196105 Saint-Petersburg
RUSSIAN FEDERATION

Trikolor is a multi-platform operator developing in Russia a single information space for entertainment and services for the whole family, accessible from any device, anywhere and regardless of time. Along with TV, which can be watched both via satellite and on the Internet, the operator offers customers advanced digital services and services, including online service, smart home, video surveillance and satellite Internet.

The online service is available to customers on hybrid receivers with the ability to connect to the Internet, in the Trikolor Cinema and TV application on smartphones, tablets and TVs with the Smart TV function, or in the web version of kino.Trikolor.tv. The subscription base of satellite TV, which focuses mainly on the extra urban population residing outside of cities, is starting to decline. Trikolor TV lost about 60 thousand subscribers in 2018 compared to 2017.⁶⁸

According to the company, at the end of 2021, the total base of Trikolor amounted to 12.261 million households, including more than 10.4 million customers using equipment with HD format support. The company has over 681,000 4K customers, and the number of unique users of the Trikolor Cinema and TV online service is 1.7 million. Trikolor is the leader in terms of the number of customers among Pay TV operators in Eastern Europe.⁶⁹

Trikolor proposed 17 different packages.

The line-up of Trikolor TV used to propose less Western channel than NTV Plus.

As Western news channels, it used to include CNN (in English) France TV5 Monde (in French) and DW (in German), NHK World (in English). CNN, TV5 Monde and DW disappeared the 6 March 2022, NHK World the 8 March 2022

National Satellite Company announced by press releases that the withdraw of Western channels was at the initiative at the rightsholders.

⁶⁸ J'Son and Partners Consulting, op.cit.

⁶⁹ <https://blog-Trikolor-tv.translate.google/about/?source=header& x tr sl=ru& x tr tl=en& x tr hl=en& x tr pto=sc>

5. Conclusion: The proposal of sanctions in order to make possible a free-to-air package of Western channels targeting the Russian market on Eutelsat 36 E satellites.

The media policy of censorship launched by the Russian authorities the 4th March had a paradox consequence: European news channels have been excluded from two European-owned and operated satellites and the capacities of those satellite continue to be used by two Russian packagers (one very close to the Kremlin) to transmit Russian channels providing the governmental war propaganda.

This raises the issue of the possibility of sanctions against the two packagers. The file is very complex from of legal point of view and this note does not pretend to cover all aspects, that should of course be analysed by the relevant authorities.

5.1. The double structure: EUTELSAT IGO and Eutelsat S.A.⁷⁰

While Eutelsat S.A. is the operating company, it is under the rules of the European Telecommunications Satellite Organisation (Eutelsat IGO), an intergovernmental organization⁷¹ ruled by the Amended Convention⁷². Russia is Member since 4 July 1994⁷³.

According to the article III of the Amended Convention, the purposes of EUTELSAT are

a) The primary purpose of EUTELSAT is to ensure that the Basic Principles set forth in this Article are observed by the Company Eutelsat S.A. namely:

i) public service/universal service obligations: such obligations apply to space segment and to its use to provide services connected to the public switched telephone network; audiovisual services and future services will be provided in conformity with the relevant national regulations and international agreements, in particular the provisions of the European Convention on Transfrontier Television, taking account of those applying to the universal service concept and the information society;

⁷⁰ In this document we follow the rules as agreed during the restructuration in 2001. EUTELSAT is in uppercase lettering when referring to:

- a. The Organization prior to its restructuring
- b. EUTELSAT Convention
- c. EUTELSAT Intergovernmental Organization (EUTELSAT IGO)

Eutelsat in lowercase lettering is proper for:

- a. Eutelsat Communications S.A. (the holding company),
- b. Eutelsat S.A. (the operating company),
- c. all other subsidiary entities of the Eutelsat group of companies
- d. in general, whenever a reference to Eutelsat commercial activities is made

⁷¹ <https://www.eutelsatigo.int/>

⁷² <https://www.eutelsatigo.int/en/institutional-texts/>

⁷³ Russia has not ratified the amended EUTELSAT convention of 2001. Neither has Ukraine, Belarus and a few other countries. The Convention is in force, however, and binding on all Member-States which are Parties to the Amended EUTELSAT Convention.

ii) pan-European coverage by the satellite system: the Company Eutelsat S.A. shall, on an economic basis, seek through the pan-European coverage of its satellite system to serve all areas where there is a need for communications services in Member States;

iii) non-discrimination: services shall be provided to users on an equitable basis subject to commercial flexibility and consistent with applicable laws;

iv) fair competition: the Company Eutelsat S.A. shall comply with all applicable laws and regulations relating to fair competition. b) EUTELSAT shall also have the purpose of ensuring continuity regarding rights and obligations under international law, in particular under the Radio Regulations for the use of frequencies deriving from the operation of the EUTELSAT space segment transferred to the Company Eutelsat S.A..

It is interesting to note that the Amended Convention refers to the Convention on Transfrontier Television, a Treaty under the responsibility of the Council of Europe. The Russian Federation has signed this Convention the 4 October 1996 but has never ratified it and the Signature considered to be suspended as from 16 March 2022⁷⁴.

It could probably be considered that the use of the capacities of satellites operated by Eutelsat by TV channels defending the Russian military intervention in Ukraine, condemned by a majority of UN members and by a majority of members part to Eutelsat IGO, should be a matter of concern for the Eutelsat IGO.

The Committee Denis Diderot has communicated to Mr. Piotr Dmochowski-Lipski, Executive Secretary an early version of this working paper.

5.2. Eutelsat S.A. , as a neutral infrastructure provider, will probably not act by itself

Numerous Western companies, since the 24th February, have decided to withdraw or freeze their activities in Russia, whatever for ethical or practical reasons.⁷⁵

According to Advanced Television, Eutelsat executives say they have about 6 per cent of group revenues exposed to Russian activity. The bulk of this comes from distribution deals on Russian pay-TV systems operated by Tri kolor and NTV+. A report from analysts at investment bank Exane/BNP forecasts a scenario – unconfirmed by the company – where the French government requests (or Eutelsat offers) to switch off transponders for Russia on its Eutelsat 36B satellite thereby blacking out dozens of millions of TV sets.⁷⁶

It is dubious that Eutelsat will act by its own initiative. Indeed, according to “Commitments to the Clients” and Business partners the Guidelines of its Code of Ethics, Eutelsat commit itself to refrain from intervention related to content, except if decided by regulators or courts:

⁷⁴ <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=132>

⁷⁵ See the watchlist established by the Yale School of Management <https://som.yale.edu/story/2022/over-450-companies-have-withdrawn-russia-some-remain>

⁷⁶ « Bank : Eutelsat could switch off Russia transponder”, Advanced Television, 2nd March 2022., <https://advanced-television.com/2022/03/02/bank-eutelsat-could-switch-off-russia-transponders/>

“As an infrastructure provider, Eutelsat upholds a commitment to neutrality, i.e., holding no opinion on the content delivered by its satellites. The Group strictly refrains from any judgment of ideological or political positioning and unequivocally follows court decisions, and instructions from relevant regulators at national and international levels. Eutelsat expects its business partners to adhere to equivalent ethical standards in all their activities.”⁷⁷

5.3. The competences of the French authorities

5.3.1. Policy regarding French companies active in Russia

The French government has not promoted a general policy to push French companies operating in Russia to stop their activities. According to a statement by the speaker of the Government, Gabriel Attal, it is up to the companies to decide if they continue their activities in Russia.⁷⁸

5.3.2. Audiovisual media services regulation

As the company Eutelsat S.A. is established in France, it could be argued that the French authorities (in particular the Arcom, which now replace the CSA) may have some competence on the issue.

There are two cases of intervention of the French regulatory authority (the former CSA) related to foreign channels (Hezbollah’Al Manar and Iran’s Sahar 1) which used to be transmitted through Eutelsat satellite but in a different legal and political context.

The new EU the Audiovisual Media Services Directive European Union law (the "Audiovisual Media Services Directive", AVMSD) provides that, when a non-European channel is broadcast in Europe by a satellite owned by a French operator and by an uplink located in France, it is attached to the competence of France. But in this point of the Directive is related to the audiovisual services, not to the activity of distribution of channels. The uplink of most of the channels available on NTV Plus and on Tri kolor is done from Russia. And, as a matter of fact, the paying services provided by NTV Plus and Tri kolor are not commercialised in France. They are not part of the field of application of the AVMS Directive.

5.3.3. Implementation of the EU Decision on RT services

The only point where the Arcom could act is on the fact that, as at 29 March 2022, the prohibition of the RT News services decided by the European Union is not respected by 3 packagers operating on Eutelsat satellite:

- NTV Plus on Eutelsat 36B (beam Russia)
- Zap (based in Angola) on Eutelsat 36B (beam South Africa)
- Cosmote TV (based in Greece) on Eutelsat 9B (Beam Extended Greece).⁷⁹At our knowledge, no legal text has been yet adopted by the French authorities to implement the EU Decision on the banning of RT services.

⁷⁷ EUTELSAT, Code of Ethics, https://www.eutelsat.com/files/PDF/group/Eutelsat_Code_Ethics.pdf

⁷⁸ Gabriel Attal, interview on Public Sénat, 28 March 2022 <https://www.youtube.com/watch?v=2hpsFiaYmj8>

⁷⁹ Source : Page » RT News » on Lyngsat, consulted the 29 March 2022.

<https://www.lyngsat.com/tvchannels/ru/RT-News.html>

5.4. The possible role of the European Union

5.4.1 The precedent of the EU decision against RT and Sputnik⁸⁰

In Europe, the RT channels have acquired a significant audience in their TV broadcasting, but above all via the Internet. Over the years, in several countries, these channels have been increasingly perceived as spreading false information undermining the democratic life of States. The destabilising role of disinformation led the European Union to set up an observation structure in 2015 (EU vs Disinformation)⁸¹ and a High-Level Group on fake news and online disinformation⁸².

The High-Level Group mainly recommended positive measures in the framework of a so-called “multidimensional approach to disinformation”:

- enhance transparency of online news, involving an adequate and privacy-compliant sharing of data about the systems that enable their circulation online.
- promote media and information literacy to counter disinformation and help users navigate the digital media environment.
- develop tools for empowering users and journalists to tackle disinformation and foster a positive engagement with fast-evolving information technologies.
- safeguard the diversity and sustainability of the European news media ecosystem.
- continued research on the impact of disinformation in Europe to evaluate the measures taken by different actors and constantly adjust the necessary responses.

The invasion of Ukraine and the fact that RT and Sputnik promoted the official narrative of a "military operation in Donbass"⁸³ rather than a war against the whole of Ukraine led the European Union to an unprecedented decision and the transition to a repressive policy.

On 1 March 2022, the Council of the EU adopted a Decision pursuant to Article 29 TEU and a Regulation pursuant to Article 215 TFEU (“the EU Decision and Regulation”) by which it is prohibited for “operators to broadcast or to enable, facilitate or otherwise contribute to broadcast, any content by the legal persons, entities or bodies listed in Annex XV [RT- Russia Today English, RT- Russia Today UK, RT - Russia Today Germany, RT - Russia Today France, RT- Russia Today Spanish, Sputnik], including through transmission or distribution by any means such as cable, satellite, IP-TV, internet service providers, internet video-sharing platforms or applications, whether new or pre-installed”. Any broadcasting licence or authorisation, transmission and distribution arrangement with RT and Sputnik are suspended. Furthermore, it is prohibited “to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent such prohibitions in the Regulation including by acting as a

⁸⁰ Extract from Francisco Cabrera, *The implementation of EU sanctions against RT and Sputnik*, Note, European Audiovisual Observatory, Council of Europe, March 2022. https://www.obs.coe.int/en/web/observatoire/home/-/asset_publisher/wy5m8bRgOygg/content/the-implementation-of-eu-sanctions-against-rt-and-sputnik

⁸¹ <https://euvsdisinfo.eu/>

⁸² <https://www.ecsite.eu/activities-and-services/resources/final-report-high-level-expert-group-fake-news-and-online>

⁸³ Voir notamment Loris Guémart, “Sur RT, une guerre sans images ni faits », *Arrêt sur Images*, 26 février 2022. <https://www.arretsurimages.net/articles/sur-rt-france-une-guerre-sans-images-ni-faits>

substitute for natural or legal persons, entities or bodies referred to in Article 2e(3) or Article 2f, 5, 5a, 5b, 5e, 5f or 5h, or by acting to their benefit by using the exceptions in Article 2e(4), 5(6), 5a(2), 5a(5), 5b(2), 5b(3), 5e(2) or 5f(2) of Regulation (EU) No 833/2014”.

The Regulation entered into force on 2 March 2022, the date of its publication in the Official Journal of the European Union.

Rationale

According to the Recitals of the EU Decision and Regulation, the Russian Federation “has engaged in a systematic, international campaign of media manipulation and distortion of facts in order to enhance its strategy of destabilisation of its neighbouring countries and of the Union and its Member States.” [...] “Those propaganda actions have been channelled through a number of media outlets under the permanent direct or indirect control of the leadership of the Russian Federation. Such actions constitute a significant and direct threat 19 Council Decision (CFSP) 2022/351 of 1 March 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, %3A2022%3A065%3ATOC. 21 Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, to the Union’s public order and security” and “are essential and instrumental in bringing forward and supporting the aggression against Ukraine, and for the destabilisation of its neighbouring countries”. The abovementioned restrictive measures will be maintained “until the aggression against Ukraine is put to an end, and until the Russian Federation, and its associated media outlets, cease to conduct propaganda actions against the Union and its Member States”. These measures “do not prevent those media outlets and their staff from carrying out other activities in the Union than broadcasting, such as research and interviews”. With regard to the competence of the European Union to take such restrictive measures, the Regulation explains that they “fall within the scope of the Treaty and, therefore, in particular with a view to ensuring their uniform application in all Member States, regulatory action at the level of the Union is necessary”.

5.4.2. The aftermath of the EU decision

In a press release, the European Regulators Group for Audiovisual Media Services (ERGA) declared they were “committed to contribute to the swift and effective implementation of the measures by all stakeholders”.⁸⁴

The Body of European Regulators for Electronic Communications (BEREC) also explained that “*the Open Internet Regulation allows Internet access service providers to take traffic measures to block specific content, applications or services in order to comply with Union legislative acts. The amendment of Regulation 833/2014 is a legislative act that falls within the scope of the exceptions in Article 3(3) of the Open Internet Regulation.*” BEREC Chair Annemarie Sipkes stated that to “enable a swift implementation of the sanctions, we want to make clear that there are no obstacles in the net

⁸⁴ “ERGA stands united and ready to contribute to the effectiveness of new EU economic sanctions on Russian state-controlled media”, ERGA Press release, 2 March 2022. <https://erga-online.eu/?p=1138>

neutrality rules to comply with the measures”. She added: “This means that BEREC member NRAs can facilitate Internet access service providers to comply with the measures by the EU.”⁸⁵

Implementation started very rapidly in various countries by initiative of the regulators or by the distribution companies (Austria, Cyprus, Estonia, Greece, Ireland, Lithuania, Romania).

Many NRAs from EU member states who had not taken any prior measures to suspend the retransmission of programmes have now publicly communicated the EU regulation and decision and reminded players that these instruments are of immediate and direct application. The following NRAs have done so on their website: KommAustria (AT); CSA (BE); Medienrat (BE); VRM (BE); CEM (BG); RRTV (CZ); Arcom (FR); AEM (HR); MPRT (SE); AKOS (SI); CBR (SK)⁸⁶

However, some Member States found that the implementation could go faster. During a radio interview the 30 March 2022, Simonas Kairys, Minister of Culture of Lithuania, complained that the implementation by Eutelsat was too slow.⁸⁷

The decision was criticized by the International Federation of Journalist (IFJ), the European Federation of Journalists (EFJ), the Reuters Institute both for legal aspects and for its counter-productive effects in Russia and other countries like Mali, quoting this decision as an excuse for their censorship practices. Some intellectuals also criticized the decision.⁸⁸ In Switzerland the Federal Council decided "not to

⁸⁵ “BEREC supports ISPs in implementing the EU sanctions to block RT and Sputnik”, BEREC Press release, 11 March 2022. https://berec.europa.eu/eng/news_and_publications/whats_new/9340-berec-supports-isps-in-implementing-the-eu-sanctions-to-block-rt-and-sputnik

⁸⁶ “NRAs communicate the EU regulation and decision to ban RT and Sputnik to stakeholders, some extend ban further”, EPRA, 7 March 2022

⁸⁷ Gytis Kapševičius, “Uždraudus dalį rusiškų kanalų, Rytų Lietuvos gyventojai susidomėjo palydovinėmis antenomis Skaitykite daugiau”, 15 Verlas, 27 March 2022 (https://www-15min-lt.translate.google.com/verslas/naujiena/medijos/uzdraudus-dali-rusisku-kanalu-rytu-lietuvos-gyventojai-susidomejo-palydovinemis-antenomis-921-1657930?x_tr_sl=lt&x_tr_tl=en&x_tr_hl=fr&x_tr_pto=wapp)

⁸⁸ See, for example Jean-Marie Klinkenberg, Member of the Royal Academy of Belgium, *Le Soir*, 4 March 2022. “J’en veux à Vladimir Poutine parce qu’il vient, en quelques jours, d’inoculer à nos sociétés un poison dont je croyais qu’il n’était plus disponible sur le marché. J’apprends en effet qu’on a interdit la diffusion des médias russes pour qu’ils ne puissent plus « diffuser leurs mensonges, leur propagande et leur désinformation ». N’ayant jamais lu une seule ligne de Russia Today ni écouté une seule seconde de Sputnik, leurs communiqués ne vont certes pas me manquer. Mais je suis saisi d’effroi à l’idée qu’elle est revenue chez moi, la censure pour raison d’État. Terrifié de voir qu’y applaudissent aujourd’hui ceux qui naguère aimaient à citer un Voltaire apocryphe (« Je ne suis pas d’accord avec ce que vous dites, mais je me battrais jusqu’à la mort pour que vous ayez le droit de le dire ».

For the reactions by journalists, see : European Federation of Journalists, « Fighting disinformation with censorship is a mistake », 1st March 2022, <https://europeanjournalists.org/blog/2022/03/01/fighting-disinformation-with-censorship-is-a-mistake/>; Jason Rezaian, « RT is a terrible network. But don’t ban it », *Washington Post*, 3 March 2022 ; Arnaud Gonzague, « RT et Sputnik interdits en Europe : « N’imitons pas Vladimir Poutine en censurant », *L’OBS*, 4 mars 2022 ; Alice Dive, Ricardo Gutiérrez, Bernard Guetta, “Interdire RT : est de la censure ?”, *La Libre*, 5 Mars 2022 ; Luca Bertuzzi, *The Brief – Should we give the word to those who would take it from us?*, *Euractiv*, 8

implement the EU measure of March 1, 2022 regarding the distribution of content from certain Russian channels, namely 'Sputnik' and 'Russia Today'. The argument is “Although these channels are tools of targeted propaganda and disinformation by the Russian Federation, the Federal Council believes that countering untrue and harmful statements with facts is more effective than banning them.”⁸⁹

The management of RT France has lodged an application for interim relief before the European Court. This was rejected on the 30rd March 2022. The court will examine the complaint on the fund in an emergency procedure, i.e., within 6 months.⁹⁰

Decision to ban was also adopted in three European non-EU countries: Moldavia, Ukraine and UK.

On 28 February 2022, Ofcom, the UK regulator, opened 15 new investigations into the due impartiality of news programmes on the RT news channel. This takes the total number of RT programmes under investigation to 27. Ofcom has observed a significant increase in the number of programmes on the RT service that warrant investigation under the Broadcasting Code. OFCOM announced on 18 March 2022 the revocation of RT's licence to broadcast in the UK, with immediate effect.

5.4.3. Other sanctions against Russian broadcasters in European countries

In reaction to the events unfolding in Ukraine, the Ukrainian regulator, the National Council of Television and Radio Broadcasting (NCTRB) decided on 25 February to suspend retransmission of more than seventy Russian TV channels in connection with recurring use of violent rhetoric referring to the Ukrainian authorities, law enforcement bodies, armed forces and the Ukrainian people in general; perceived as a threat to national security in the context of the current crisis.⁹¹

Latvian regulator NEPLP, as of 7 March, has suspended access to Rossiya RTR, Rossiya 24, TVCi, Belarus 24, RBK, MIR24, RTVi, THT- Comedy, THT4 International, TNT, TNT Music, FRIDAY International, KHL TV channel, KHL HDTV channel, KINOPREM'YERA, KINOSVIDANIYE, Muzhskoye kino, Lya-minor TV, Avto Plus, Nostal'giya, ZHIVI!, Kto yest' kto, Malysh-TV, Russkaya noch and Zee TV on their national territory.⁹²

Lithuanian regulator RTCL has suspended Primais Baltijas Kanals Lietuva, TVCi, Planeta RTR, Rossiya 24, NTV Mir, Belarus 24, MIR24 and RBK. YouTube also confirmed on 2 March the suppression of the

March 2022 ; Laurent Mauduit, RT France et Sputnik fermés au terme d'une procédure d'exception, *Médiapart*, 14 Mars 2022.

⁸⁹ «RT» und «Sputnik»-Bundesrat verbietet russische Propagandasender nicht, SRF, 25 März, 2022

⁹⁰ ORDONNANCE DU PRÉSIDENT DU TRIBUNAL, 30 mars 2022, « Référé – Politique étrangère et de sécurité commune – Mesures restrictives prises eu égard aux actions de la Russie déstabilisant la situation en Ukraine – Suspension des activités de diffusion de certains médias – Demande de sursis à exécution – Défaut d'urgence – Mise en balance des intérêts »

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=256901&pageIndex=0&doclang=FR&mode=req&dir=&occ=first&part=1&cid=107815>

⁹¹ “Situation in Ukraine prompts reactions from NRAs across Europe”, EPRA, 25 February 2022,

⁹² “NRAs communicate the EU regulation and decision to ban RT and Sputnik to stakeholders, some extend ban further”, EPRA, 7 March 2022

channels on their platform, as per RTCL's request. RTCL has also asked that the Lithuanian government take measures to legally allow for the suspension of television programmes related to Gazprom Media, a subsidiary of Gazprombank - a bank that has been struck with financial sanctions by the EU.⁹³

Polish regulator KRRiT also indicated on 4 March having removed from the register of TV programmes Belarus 24 and Pervyj Channel, in addition to RT, RT Documentary, RTR Planeta, Soyuz TV and Rossiya 24 which had been removed earlier.⁹⁴

In Moldova, on 2 March, the Committee for Extraordinary Situations of the Republic of Moldova issued a decision providing the suspension of programmes originally produced in countries that did not ratify the European Convention on Transfrontier Television, with the exception of films and entertainment programmes (and EU, US and Canadian programmes). On 4 March, the Moldovan regulator, the Audiovisual Council announced that it had fined media services provider "Exclusiv Media", founder of television channel "NTV Moldova" for repeated violations of Article 13 of the Code of Audiovisual Media Services relating to its coverage of the war in Ukraine and its depiction of the Ukrainian President.⁹⁵



Map of national sanctions against Russian TV channels in Europe as of 28 March 2022 (Source : EPRA)

⁹³ EPRA, ibidem

⁹⁴ EPRA, ibidem

⁹⁵ EPRA, ibidem

5.4.4. Request for further sanctions against Russian broadcasters by the National Council of Radio and Television Broadcasting of Ukraine and Baltic States

The 12 March 2022, the Ukrainian regulatory authority has launched a Appeal of the National Council to Ursula von der Leyen and Josep Borrel for further sanctions involving other broadcasters.⁹⁶

“The National Council of Television and Radio Broadcasting of Ukraine takes this opportunity to express our deep respect to you and all European nations that show their support to Ukraine these days.

We were excited with the Decision (CFSP) 2022/351 amending Decision 2014/512/CFSP and imposing further restrictive measures against Russian propaganda media, as well as Regulation (EU) 2022/350 amending Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilizing the situation in Ukraine.

At the same time, we want to point your attention to the fact, that not only Russia Today and Sputnik are bombarding minds and hearts of Europeans. Russian Federation has a huge fleet of propaganda TV channels that broadcast in Russian language and – using European satellite platforms and free-to-air uncoded signals – cover the whole European continent with the dirtiest programming mankind could imagine. All this programming targeted to those who understand Russian – citizens of Ukraine, Moldova, Baltic states and millions and millions of people who are living of temporarily staying in Europe. And the most awful fact that this programming comes from satellites that are under European jurisdiction – Eutelsat Communications SA (France) and SES S.A. (Luxemburg).

We do believe that it will be very important and vitally useful if ANNEX IX (LIST OF LEGAL PERSONS, ENTITIES OR BODIES REFERRED TO IN ARTICLE 4g) to Decision 2014/512/CFSP will also include following TV channels:

VGTRK: Rossiya 1, Rossiya 24, RTR Planeta

JSV Channel One: Channel One, Channel One Europe

JSV NTV: NTV, NTV24

JSV “TV company Petersburg”: 5th Channel

Mentioned above Russian channels belong to businesses already sanctioned by the countries of the world to block bloody money earning.”

According to *Der Spiegel*, quoting an internal German federal government paper ahead of a meeting of EU media ministers the 4th April 2022 Latvia, Lithuania and Estonia are calling on the EU to ban a further three Russian channels., (Rossija RTR (formerly RTR Planeta), Rossija 24 and TV Center

⁹⁶ Appeal of the National Council to Ursula von der Leyen and Josep Borrel, 12 March 2022 <https://www.nrada.gov.ua/en/appeal-national-council-ursula-von-der-leyen-josep-borrel/>

International). These have significant reach in Europe and according to the Baltic states are being used to disseminate Russian war propaganda.⁹⁷

5.4.5. The possibility of a new sanction decision by the EU and/or by EUTELSAT IGO

So far, the decisions taken by the European Commission and national regulatory authorities following the Russian aggression against Ukraine were taken against individual TV channels, i.e., against activities of a broadcaster.

The Denis Diderot Committee consider that those decisions are not symmetric to the sanction against RT and Sputnik decided by the European Union: while RT and Sputnik were promoting the legitimacy of the “military operation” in Ukraine, (i.e. promoting war and non-respect of national security and territorial integrity of a State), the services concerned by the Russian interdiction, (most of them provided in the framework of public service principles recognizing the independence of the journalists), were just reporting and analysing the events, without obeying government instructions.

The proposal of the Denis Diderot Committee is however of a different nature, as we suggest that the decision should be taken against pay-TV operators, related to their activity of channels distribution. It should not be considered as a censorship but as a regulation/repression of the censor role played by two monopolistic gatekeepers.

Considering that the two Russian packager NTV Plus o.o.o. and JSC National Satellite Company are using capacities of satellites operated by an EU company to distribute TV channels proposing the official Russian governmental war propaganda and have excluded European news channels on a false argument (a supposed willingness of rightsholders when it is in reality an implementation of the censorship decided by the Douma by the law of the 4 March 2022) it may be argued that sanctions could be taken them as participating to the disinformation war and propaganda organized by the Russian government.

The same legal basis as for the RT/Sputnik decision could be considered.

A decision of the European Union could take the form of a prohibition for those operators to use the satellite capacities provided to Eutelsat S.A. Eutelsat S.A. could then have the legal basis to switch-off the down link signal of the transponders currently allocated to the two packagers.

In theory, the same decision could be taken by the EUTELSAT IGO. However, considering that the Russian Federation is a member of the intergovernmental organization, it would probably be harder to have this decision adopted than by the European Union.

Of course, the formalization of those possible sanctions will have to be formalized in legal terms by the competent services of the EU and possibly by the EUTELSAT IGO, a task which are out the remits of our committee.

⁹⁷ Baltische Staaten fordern EU-Sende-Verbot für weitere russische Medien, *Der Spiegel*, 1. April 2022 ; Chris Dziadul, “Baltic states demand further Russian channel ban”, *Broadband TV News*, 1st April 2022

5.5. A possible positive aftermath of a sanction decision against NTV and Trikolor : liberating room for a variety of news channels with a democratic and pluralistic approach

The proposed decision is to ban NTV Plus and Trikolor from Eutelsat satellites in order to liberate capacities for Western (EU news channels but also BBC Global News, CNN International, NHK World, , Ukrainian news channels and possible independent Russian news channels established within or outside Russia.

Those channels could – if they are willing – be reunited in a common package to be proposed in a first step, free-to-air in order to avoid the need of new decoders, that will probably be difficult to distribute in the current period.

There are already various non-Russian broadcasters providing TV services In Russian:

- Euronews used to have a Russian version of its service part of the Trikolor package that could be relaunched on a larger scale
- Current Time TV Channel (Nastoyashcheye Vremya), the channel provided from Prague by Radio Liberty Europe. Nastoyashcheye Vremya is currently transmitted by 6 satellites but with no real access to the Russian market. Having the possibility to be on the Eutelsat 39E Satellite would provide those two channels a possibility to reach an important fraction of the Russian public.

Availability of Nastoyashcheye Vremya © LyngSat, last updated 2022-03-28 https://www.lyngsat.com/tvchannels/cz/Nastoyashcheye-Vremya.html									
Position	Satellite	Beam EIRP (dBW)	Frequency	System	SR FEC	Video	Encryption	Packages	Source
45.1°E	AzerSpace 2/Intelsat 38	Europe 51.6-53.6	11475 V	DVB-S2 8PSK	30000 05-juin	MPEG-4 SD	Irdeto Videoguard	Vivacom	Z Viglidán 200530
13.0°E	Hotbird 13B	Wide 53	12226 V	DVB-S	27500 03-avr	MPEG-4 HD 1080		Xtra TV	Marcel 2 170725
13.0°E	Hotbird 13B	Wide 53	12226 V	DVB-S	27500 03-avr	MPEG-2 SD			P Grandicelli 171128
4.8°E	Astra 4A	Nordic BSS 0	11938 V	DVB-S2 8PSK	27500 05-juin	MPEG-4 SD	Videoguard	Home 3	M Al-Taie 220227
1.9°E	BulgariaSat 1	Europe 52	12149 H	DVB-S2 8PSK	30000 02-mars	HEVC			M Al-Taie 220309
3.9°W	Amos 7	Middle East 0	11474 V	DVB-S	27500 03-avr	MPEG-2 SD	Videoguard	Yes	DX Bozóth 170530

- There is also an Estonian Russian-language public TV channel, ETV+, broadcast in the country and online.⁹⁸, provided since September 2015 by the Estonian public broadcaster Eesti TV⁹⁹ The channel is currently available on the satellite Astra 4A (at 4.8°E, Nordic Beam), encrypted in Videoguard

⁹⁸ <https://etvpluss.err.ee>

- A number of Ukrainian TV channels, primarily UATV¹⁰⁰ and Dom¹⁰¹, broadcast online and from satellite programming in Russian.
- BBC¹⁰², VoA¹⁰³, and DW¹⁰⁴ produce news and current affairs TV programmes in Russian and distribute them online, including via YouTube¹⁰⁵.

As for the other Western news channels, currently provided in non-Russian languages BBC World, France 24, DW, TV5Monde, RaiNews, CNN, Ukraina 24, TVP World, should be an objective to have the possibility of reaching again the Russian public through the Eutelsat satellites would be important. It could be considered a public funding (by the EC or by the Council of Europe) to provide subtitled or dubbed versions of key programmes.¹⁰⁶

Russian independent TV operated by Russian journalists in exile could also be created with public funding.

Western broadcasters currently providing thematic channels in Russian through NTV Plus could be invited to join the new package on a FTA basis, as a move of solidarity with the Russian civil society.

A subsidiary consequence of a sanction against NTV and TriKolor would be to deprive the Russian channels providing governmental propaganda of one of the important means of transmission. However, this should not be considered as a major objective: those channels are also transmitted by

¹⁰⁰ <https://uatv.ua>

¹⁰¹ <https://kanal-dom.tv>

¹⁰² <https://www.bbc.com/russian>. See also : From the 7 March BBC made a daily half-hour news bulletin (broadcast at 2000 GMT) available free of charge to other broadcasters who are members of the European Broadcasting Union (EBU). Audiences get the chance to watch Outside Source, normally presented by Ros Atkins, from Monday to Thursday, and a BBC News bulletin from Friday to Sunday. Given the current news agenda we expect the news to focus on Ukraine and related stories. BBC News is also launching TikTok accounts exclusively dedicated to videos about the war, in Russian and in English, from today. The handles are @bbcnews and @bbcnewsrussian. TikTok has fast become a crucial platform for information (and disinformation) about the war in Ukraine. (BBC increases access to news on Ukraine and Russia”, “BBC Media Center, 7 March 2022).

¹⁰³ <https://www.golosameriki.com/programs/tv>

¹⁰⁴ <https://www.dw.com/ru/темы-дня/s-9119>

¹⁰⁵ <https://www.youtube.com/c/dwrussian/featured>

¹⁰⁶ Figures provided by the BBC Press Office early March confirm the wide interest of the Russian and Ukrainian public for foreign news since the 24th February : « *The audience for the BBC’s Russian language news website more than tripled its year-to-date weekly average, with a record reach of 10.7m people in the last week (compared to 3.1m). In English, bbc.com visitors in Russia were up 252% to 423,000 last week. Digital live pages, giving people updates, explanation, and reports from expert journalists on the ground, are proving hugely popular. The live page in Russian covering the invasion was the most visited site across the whole of the BBC World Service’s non-English language services, with 5.3m views. Audiences for the Ukrainian language site more than doubled year-to-date, with a reach of 3.9m in the past week (compared to 1.7m) and the audience for bbc.com increased 154% in Ukraine. These numbers represent direct traffic to BBC websites, and are likely to rise significantly when social media audience figures are factored in. In total, 77.4m unique visitors consumed BBC online coverage of Ukraine in English in the first five days of the invasion, with almost 200 million views of the live page on Ukraine.* », “Millions of Russians turn to BBC News”, BBC Press Office, 2 March 2022, updated 11 March 2022

other satellites under Russian control and the channels could continue to be distributed through cable, DTT and IPTV. The proposed measures should not be considered as censorship.

In order to obtain from the European Union, the proposed decision of sanction and to set-up the alternative package of Western news channels an ad hoc task force involving the various Western stakeholders should probably be established. Specific public and private funds should be dedicated to the project.¹⁰⁷

¹⁰⁷ The UK Government has announced the 23 March 2022 a £4.1m emergency funding to support or support the BBC Ukrainian and Russian language services. "BBC World Service to get extra £4.1m to support Ukrainian and Russian services", *The Guardian*, 23 March 2022.

Annex

How to Use Satellite TV To Break into Putin's TV Propaganda Fortress

By Jim Phillipoff.

Published March 21 at 3:15 pm in *Kyiv Post*

How to Break into Putin's Television Propaganda Fortress

This can be achieved via satellites, from which 25% of Russians get their news

Apply sanctions to Russian pay-TV platforms Tri kolor and NTV+

Replace them with free and fair media

In light of Putin's deadly attacks on Ukrainian hospitals, maternity wards, nuclear facilities, women, and children, one fact is clear to many: if only Russians could see the truth about what is happening, then things might be different. If average Russians were aware of the brutality and barbarism that is being executed in their name on a brotherly Slavic nation, then many believe that Russians would be out on the streets in enough numbers to overwhelm Putin's goon squad.

But how can reality be displayed, especially in the television space, where most Russians consume their news? The preference for television news of Russians is well known, especially among the older generation. These are the mothers and fathers that can have great sway over sending their sons into conscription and headed to Putin's horrible war of choice.

One solution which is not usually explored, except in very technical circles, is to break in via satellite, which is the Achilles heel of Putin's media stranglehold. As the former CEO of the Ukrainian satellite pay-TV company Xtra TV, I have done considerable research into how television is viewed in the region, and how we can best attain penetration into Russian households.

Approximately 25% of Russian households view television via satellite, mostly on two major Russian pay-TV platforms, Tri kolor, and NTV+, which are broadcast via a French satellite Eutelsat at 36°E. Putting free and fair Russian language channels on this satellite position would, therefore, enable access to the truth to a large swath of the Russian population.

The question then is why is this not being done if it's so simple? The main reason is that both Tri kolor and NTV+ lease the satellite space from Eutelsat, a French company, and it appears that the platforms do not allow any competing companies access to this strategic Russian satellite position. They must realize that 36°E is a glaring weakness in their media control and have locked out the competition. In past years I have approached Eutelsat to lease space on this position, but since 2014 nothing, as far as I know, been made available.

The flaw in Putin's media architecture is that Eutelsat is a French company must abide by French law. Eutelsat has enormous power in this situation and has the technical ability to replace the Tri kolor and NTV+ packages with free and fair channels. Yet Eutelsat is a business, striving to generate value for their shareholders and must respect the contracts which are in place. However, if pressure were to be applied from both the EU and/or the French government, Eutelsat could be compelled to act.

To achieve the goal of free media delivered to Russian satellite TV households, the following actions should be taken:

Apply EU sanctions to NTV+ and Tri kolor so as to prevent European companies from providing them with technical services. This would force Eutelsat to drop their packages.

Encourage Eutelsat to allow free and fair channels to replace Russian lies. These channels could include independent media like Rain (Dozhd) which was recently banned in Russia. Ukrainian channels could also be added, with translations provided where necessary. Other aspiring Russian media channels would be quick to apply for access to this position as well. It could quickly become a wellspring of reliable news in the middle of Putin's alternative reality media universe.

Provide funding to private companies allowing them to organize the uplink of different channels on 36°E. Funding for the channels themselves should be provided by international agencies and institutions since the main aim of this effort is not commercial.

Create a program to finance the distribution of decoders needed to receive the new signal. This could be achieved via the many manufacturers who already sell such common and relatively inexpensive decoders in Russia. In most cases a simple new decoder would be necessary to view the new channels.

Putin's media fortress is formidable, but by exploiting a weakness via satellite, it is quite possible to push the truth through.

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