feel that ultimately, the impetus for responsible journalism must come from individual journalists themselves.[42] In the current Russian atmosphere, however, one often hears not only right-wing nationalists, but die-hard liberals come to the paradoxical conclusion that only government control can guarantee the freedom and honesty of the press. If momentary passions prevail, they may get their way. "And whenever you've got a center that has influence on the press," remarked Alexei Simonov, head of the Glasnost Defense Fund, "we have not left the USSR far behind."[43]

"We run a news program. We need events and facts, not rumors. If we have an event, we will cover it." Keselev Interview, *supra* note 36.

When Gusinsky's bodyguards were attacked in December 1994 by members of Yeltsin's special guard, the political purpose of the attack was generally seen as two-fold: a warning to Gusinsky, because of NTV's daring coverage, and a warning to Luzhkov, who was believed to have presidential ambitions.

42 The twenty-seven journalists who founded the Moscow Journalists' Charter last year, for instance, all signed a declaration of journalistic ethics. The Moscow Charter has received seed funds from George Soros to implement a program of practical money to journalists: the members themselves receive no aid, but have established a program that includes buying bullet-proof vests for journalists working in "hot spots"; purchasing subscriptions to Reuter's or Interfax news agency and the TASS data bank for provincial papers that cannot afford it; financial aid to journalists injured in the line of duty; and, eventually—they hope, an independent analysis of the accuracy of Moscow's polling institutes. The Charter is also fund-raising for these programs among Moscow businessmen.

43 Simonov Interview, *supra* note 37.

LAW, FORCE, AND THE RUSSIAN MEDIA

MONROE E. PRICE*

Looking at the development of mass media law in post-Soviet Russia is like examining the wrists of a recently freed prisoner where the marks of the chains are still present.[1] The very claims for freedom and the guarantees of change bespeak past injustices and old allocations of power. In the short period that has transpired, issues of law in the defining of communication have already had a dramatic cycle: the rule of law has been followed by the assertion of military force and bloodshed, and force, in its turn, has been followed again by a clumsy reaffirmation of law. Television has been an arena for bitter struggle, political and armed. In this context, the evolution of rules for the organization and governance of the press has reflected changes in political and economic powers in a society seeking definition and stability. The forms of a media law—its words, its constructions, its hermeneutics—cannot be understood without its embedded

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1 For a history of mass media in the Soviet Union, see BRIAN MCNAIR, GLASNOST, PERESTROIKA AND THE SOVIET MEDIA (1991); JOHN MURRAY, THE RUSSIAN PRESS FROM BREZHNEV TO YELTSIN: BEHIND THE PAPER CURTAIN (1994); ELLEN MICKIEWICZ, SPLIT SIGNALS—TELEVISION AND POLITICS IN THE SOVIET UNION (1988).

context. Like other laws, those concerning broadcasting can be studied like shards from an archeological site, as clues to the nature of their social and political origins.

In conducting this inquiry, the problem of defining independence is approached from different vantage points. The formal language of statutes and judicial decisions cannot be understood without some insight into the historic origin of words and concepts. These transition states have a specific legacy in which a complex terminology and elaborate doctrine have had extraordinary sway; some familiarity with that legacy is necessary to understand the transfer of mind to a new set of jurisprudential expectations. In addition, the turbulent aspect of inventing independence is a human function as well as a legal one; some insight into the aspirations, motivations, and capacities of those who have been pioneers of independence is essential. All media transitions build not only on the innovators, but on those who were previously in control, the existing pool of journalists, and the existing journalistic tradition. An important aspect of these processes of law reform is the effort by Western entities—governments, foundations, private entrepreneurs—to expend passion, treasure, and talent to further the concept of independence. It will be useful, in understanding the evolution of media law in the transition states, to have a greater grasp of the objectives and efforts of these doctors of free speech.

In the Republics of the former Soviet Union, declarations of media independence proliferate at the same moment as the states themselves grope for a definition of their own power in a radically different world. Just before the break-up of the Soviet Union, Moscow's Second Channel, representing the fierce identity of Russia, announced independence from its parent, Gosteleradio, but became immediately dependent on the Russian Federation. In the summer of 1992 a group of Russian businessmen, led by Eduard Sagalaev, announced a joint venture with Turner Broadcasting System (of CNN fame) to create the first private sector, independent television station in Russia. That same year, Boris Yeltsin, President of Russia, appeared on television with a group of editors to reaffirm his commitment to the freedom of the press, and, in particular, the "independence" of *Izvestia* from the state; but the paper remained dependent on the state for newsprint and access to printing facilities. *Pravda* declared independence from the Communist Party, but a year later was suspended by the government for its advocation of the violent overthrow of the constitutional order. Debates between President

Yeltsin and Parliament, before its 1993 dissolution, were most vituperative over which institution most supported press independence. A strong commercial entrant, NTV, backed by a banking group which sought widespread media influence, declared itself, in 1993, the first truly independent entity with extensive news programming. In January 1994, newspapers, as a group, threatened a strike to maintain their independence; but, in their demands for continued subsidies and other protections, the need for old relationships was clear. Despite abundant declarations, the sense persisted that the elixir that produced autonomy had not yet been discovered.

These varying formulations of independence are indicators that absolute independence—coupled with financial security—is usually chimerical. Most journalists, though independent of the state, are dependent on a publisher or an editor. Most publishers and editors are dependent on advertisers, banks, or other funding sources. Perhaps only the wilfully poor or boisterously successful are persistently independent. Robert Karl Manoff has addressed these definitional aspects of independence, challenging common formulations. The media in the former Soviet Union, he has written, can achieve a certain measure of political independence, but at the cost of increased dependency on non-state institutions. "To put the matter simply, one needs to weigh carefully the consequences of trading dependence on government, party, administration, and the state for dependency on captains of industry and individual commercial enterprises."[2] For Manoff, the "independence" of the media, even in long-standing Western democracies, is not absolute. Everywhere, including in established, functioning democracies, the relationship among the media, politicians, and government is an ambiguous one. Governments control and allocate the broadcast spectrum; they grant and rescind preferred postal rates for printed matter; they pass and enforce official secrets acts, alien and sedition acts, and national security legislation.[3]

At its simplest, the essence of independence is independence from something or someone. In the American vocabulary, independence means immunity from government, particularly from government-sponsored inculcation of national identity. A report of the Commission on Radio and Television Policy, an

[2] Robert K. Manoff, Independence and Mass Media in Transition (1994) (unpublished paper, Conference on Mass Media in Transition, American University).

[3] *Id.*

unusual consortium headed by former President Jimmy Carter and concerned with the development of broadcasting policy in the former Soviet Union, sought to establish goals and define conditions for broadcasting autonomy.[4] These goals included ferreting out truth "without fear or favor;" empowering ordinary members of the public in the democratic process; gaining credibility so as to minimize citizen alienation and encourage participation in democratic processes; controlling abuses of power by government through exposing misdeeds and establishing a countervailing center of power; providing a forum for ordinary people effectively to press their interests upon and command resources from powerful institutions including government; and providing access to means of self-expression.

Definitions like those of the Carter Commission center on freedom from accountability to government, freedom to maximize economic profits, and freedom for broadcasters to pursue any goals they choose, disciplined only by the pressures and incentives of a competitive free economic market. While this approach is laudable, like so much that vaunts independence and autonomy, it has a built-in weakness: there is too little evident relationship between the goals articulated for society and the specific immunity demanded from societal regulation. The prophets of independence and supporters of free television assume that the societal goals of discourse and individual empowerment will be realized through the growth of independent broadcasters. It is hardly clear, yet, whether these assumptions are realizable.

I. The Russian Mass Media Law of 1991

The Russian Mass Media Law, signed by President Yeltsin just two days after the formal dissolution of the Soviet Union in December 1991,[5] was practically the first effort throughout all of the transition societies to enact a modern framework for communications policy. Drafted by journalists and academics in a time of dramatic change, the law is an awkward version of an ideal, a sometimes apolitical formulation of the proper relationship between the media and the state. The Russian Mass Media Law is not a statute that

4 *See generally* Aspen Institute Commission on Radio and Television Policy, Report of the Working Group on Broadcaster Autonomy and the State (1994). This report was prepared in connection with the Aspen Institute's Communications and Society Program.

5 For full text of this legislation, see Russian Federation Law on Mass Media (1991), *reprinted in* 11 Cardozo Arts & Ent. L.J. 625 (1993) [hereinafter Russian Mass Media Law].

begins with language glorifying the state, or in which the state is even the central actor. The idea of the statute is to involve the state as little as possible, to move toward autonomous information providers that have rights against the state, rather than the other way around. As an embodiment of Western traditions of independence, the statute might be an emblem of democratization—an ingredient, like a new flag of a new national identity—rather than the means to implement or require aspects of loyalty.

Censorship provisions have such significance and scope that their treatment deserves closer attention as an example of how law is deployed as an engine of reform and, simultaneously, as a badge of power. The opening chapter of the 1991 Russian Mass Media Law is a basic guarantee of freedom from censorship for "instruments of mass information." There, and in the media laws of each transition state; an explicit prohibition of censorship has been important to proclaim.[6] But the obligatory post-Soviet declaration is accompanied by another form of law, namely what is specifically excluded from the sweep of anti-censorial zeal. Article 4 of the Russian Mass Media Law lists the permissible content prohibitions, and by doing so defines the proper zone of national concern with the shaping of public consciousness. Instruments of mass information,[7] for example, are prohibited from calling for a change in the existing constitutional order by force; from arousing religious animosities; from fomenting social, class, or national intolerance; or from proliferating war propaganda. These exceptions, these nodes of sensitivity, recall areas of exclusion in article 10(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms and articles 19(3) and 20 of the International Covenant on Civil and Political Rights.[8]

In the turbulent post-Soviet environment, however, the excessive dependence on the words of law are expressive, also, of the overriding concerns of an insecure officialdom. The law's prohibition against a call for revolution in the existing constitutional structure tells of remembered wounds and an institutional aspiration

6 Article 3 of the Russian Mass Media Law identifies "censorship" as (1) pre–publication review of news media reports by state or other public agencies, and (2) the imposition of prior restraints on dissemination of news reports. *See* Russian Mass Media Law, *supra* note 5, art. 3. In addition, the Law, perhaps revealing fears from the past, seeks in article 25 to guarantee in some detail the freedom to distribute mass media products. Specifically, article 25 enjoins the government, unions, and citizens from harming the process of disseminating information. *See id.* art. 25.

7 "[M]ass information is understood to be printed, audio, audiovisual and other reports and materials intended for an unlimited audience . . . ." *Id.* art. 2.

8 The text of these documents can be found in Richard B. Lillich, International Human Rights Documentary Supplement (1991).

for stability, the preservation of basic elements of the status quo, for a political debate that has important bounds. The state has a duty to defend against the promulgation of messages that could be destructive to the process of openness. A prohibition against arousing religious animosities revealed the sensitivities that, in 1991, were already evident and affirmed a new role for the state as fostering, not suppressing, religious organizations. Sanctions against speech fomenting social, class, or national intolerance denoted an important role for the state in ameliorating the harsh schisms and ancient hatreds among ethnic groups. Finally, a statutory prohibition against "war propaganda" could be understood as a footnote to past dogma that a private, capitalist press, the press of the future, could use to stir the people into unwarranted aggression.

The Russian Mass Media Law demonstrates, in article 3, an effort to alleviate the onerous requirements of pre-publication registration and discretionary approval of instruments of mass information. The drafters knew too well how power could influence the question of who should be registered and who should not. Such measures historically invited substantive intervention from the state. Here, too, there is faith in words. The Russian Mass Media Law contains registration requirements,[9] but seeks to make the scheme less intimidating by limiting the discretion of the registration authority.[10] It also provides the skeletal framework—anticipating a supplement that has long been in gestation—for the issuance, regulation, and annulment of television and radio broadcast licenses.[11]

Limitations that seem automatic, not requiring the exercise of dangerous discretion, are built into the design of the law. Because article 7 places limits on who can be the founder of an instrument of mass information, authorities can refuse registration under article 13 if the ownership or structure is improper. Article 7 denies foreign citizens and persons without citizenship who do not live continuously within the boundaries of the Russian Federation from establishing a mass media outlet. Registration is a tool for enforcing this rule. Much more troublesome is the power under article 13(3) to deny an applicant's registration when the registering authority claims to know in advance that the content of a new publication would violate the law (for example, that it would foment

9 *See* Russian Mass Media Law, *supra* note 5, arts. 8-15.
10 *See id.* art. 13.
11 *See id.* arts. 31-32.

class or national intolerance). Even factors that once seemed clear can become fuzzy, and the power to register can easily be abused. As media ownership becomes more complicated, as relationships with foreign broadcasting entities and press investors become more common, the simple structure that looked adequate in 1991 begins to flounder.

National power to register—to legitimate—implies a power to deregister, to close, to delegitimate. The relationship between a publication[12] and the state, and the capacity of the state to influence content (often not so subtly), are functions of this harshest of sanctions: the power of the government, already, as we shall see, exercised in the post-Soviet era, actually to close a newspaper. Law, in this sense, limits, but it also empowers and legitimates state activity. One could conceive of a statutory scheme that had no power to close an instrument of mass information, relying, if necessary, on the ordinary authority of the state to punish individuals for criminal acts, or to collect taxes, or to impose damages for injuries inflicted.[13] In this respect, the Russian Mass Media Law has the beguiling appearance of liberalization, but also the more than implicit threat that the government can step in when something is deemed dreadfully wrong. Under article 16, a section too-often invoked in the years since 1991, the Ministry of Press and Information, later succeeded by the Committee on the Press, could and did force closure of a publication, if, in the view of officialdom, it persisted in violating statutory prohibitions, such as promoting conflict. The requirement that there be a prior court order was only sometimes respected.

Restrictions concerning ownership of the media provide another set of insights into how law incorporates or limits dreams and establishes visions of identity. In the 1991 Russian Mass Media Law, ownership restrictions, especially in a context where the institutions of official power had an earlier monopoly, are an index to the dedication to pluralism, to assumptions about the future role of the state in shaping national identity, and to the pace of change. The Russian Mass Media Law, as in all transitions, was to determine whether the government, directly or indirectly, would be able to

12 "[A] periodical press publication is understood to be a newspaper, journal, almanac, bulletin or other publication which has a permanent name, a current number and which is issued no less than once a year . . . ." *Id.* art. 2.
13 *See id.* arts. 43–46 (public remedies); art. 60 (possible additional private remedies). Article 15 renders registrations possibly "invalid" if, among other reasons, the registration was obtained deceptively, art. 15(1), or if the instrument of mass information has not been published for a year, art. 15(2), or if the editorial charter has not been accepted, art. 15(3). *See id.* art. 15.

establish and operate a substantial subset of instruments of mass information. The statutory approach was, therefore, an important determinant of the nature of the state and its potential for shaping public opinion and fostering loyalties.[14]

The 1991 law permitted, in article 7, any "state organ" to found a mass media outlet.[15] This provision signifies continuity with the environment of the past, a situation in which great powers in the society—the Communist Party, ministries, trade unions, even Parliament—could be founders of newspapers or broadcasting entities, a legacy of the principles that reached far back in Soviet history. The shift from public to private, one of the most difficult aspects of any transition, was shaped by this provision. State broadcasters and print media form a crucial element in Russia's mixed system of state and private mass media outlets,[16] and state-owned mass media became hotly-contested focal points of conflict between the executive and legislative branches—a conflict that erupted in October, 1993. In the fall of 1994, the State Duma had approved a draft law, "On Amendments and Additions to the Existing Law on Mass Media," which would prevent federal and regional bodies of power from being founders of mass media except for those which published only official documents. The question of severely curtailing the power of state organs to participate actively in the direction of the media as founders or publishers remained a matter of much debate.

The Russian Mass Media Law, like many of the first generation of media laws throughout the region, is a time-bounded monument to the experience of new freedoms and the traumas of transformation. Transition laws, as a group, are idealistic in construct and artifacts of a new order still being born. But in their idealism, many of these early laws, including the 1991 Russian law, did not adequately address what should occur to the previously all-powerful state broadcasting authorities or the encouragement of private competition at the margin. The law did not address whether the media should, substantively, incorporate and offer a voice for the many voices rising in Russian society, including those with agendas very different from those of the ruling authorities. Financial necessities quickly put much of the newly private press at risk and made

14 *See generally* Monroe E. Price, *The Market for Loyalties: Electronic Media and the Global Competition for Allegiances*, 104 YALE L.J. 667 (1994).

15 "The founder (cofounder) of a mass media may be a citizen, an association of citizens, an enterprise, institution, organization, or state organ." Russian Mass Media Law, *supra* note 5, art. 7.

16 *See generally* Peter Krug, *The Abandonment of the State Radio–Television Monopoly in the Soviet Union: The First Step Toward Broadcasting Pluralism?*, 9 WIS. INT'L L.J. 377 (1991).

them increasingly dependent on government subsidies.[17] As to these issues, the 1991 Russian Mass Media Law, like many other mass media statutes, was tantalizing and complex in its enshrinement of aspects of independence but not sufficiently detailed to ensure that independence would actually ensue.

Organic to the vision of this transitional statute was the preservation (and modification) of the idea of the founder from its important historical setting, in which the Party, Party organs, and the state were the traditional and exclusive sponsors of mass media. The transition to another form of collective ownership had to take place, in the view of the drafters, through the creation of a new kind of sponsoring organization, not the full equivalent, yet, of private publishers. Consequently, the device of "founder" was reinvented, as an intermediary between government and Party on the one hand and journalists on the other. Part of the complex notion of "founder" and a law-driven definition of independence is contained in articles 16 through 24. These sections provide a detailed program for the internal organization of mass media activities. The explicit state direction is not censorship, to be sure, but meticulous concern with the way editorial (primarily newspaper) ventures are organized.

The statute illustrates its preoccupation with any authority, even the authority of a newspaper's internal hierarchy, by requiring an agreement between the founder and the editor-in-chief, and, beyond that, setting forth arrangements, both editorial and functional, between the editor-in-chief[18] and the journalists. Independence, or the capacity to act freely, becomes the function of a code of law.[19] Article 26, for example, allocates power from the publisher or founder to the editor by mandating that a publication can be distributed only after its editor-in-chief has given permis-

17 *See* Andrei Richter, *Newspaper: Free To Be Bankrupt*, POST-SOVIET MEDIA L. & POL'Y NEWSL., Nov. 17, 1993, at 6; Andrei Richter, *Direct Subsidies to the Press*, POST-SOVIET MEDIA L. & POL'Y NEWSL., Jan. 27, 1994, at 2.

18 "[T]he editor-in-chief is understood to be the person who heads up the editorial staff (regardless of the name of his position) and who makes the final decision regarding the production and issuance of the mass media . . . ." Russian Mass Media Law, *supra* note 5, art. 2.

19 The Russian Mass Media Law presupposes a formal arrangement, at least for newspapers, with an "editorship" that includes the editor-in-chief and the journalists' collective. Article 19 states that the editorship performs its tasks "on the basis of professional independence," and article 18 prohibits the founder from interfering with the editorship except for pre-agreed conditions. *Id.* art. 19. A status agreement must exist between the editorship and founder; and articles 16 and 20 set forth components of such an agreement. These include setting forth the circumstances under which the founder may close the newspaper, art. 16, and how the editor-in-chief is appointed and removed, art. 20(3). *See id.* arts. 16, 18-20.

sion. The Russian statute, like many of its transitional contemporaries, differs in this respect from United States law, which does not, normally, order that there be a particular design for the internal structure of a newspaper organization or a television network. In the United States, as in many national systems, there is no guarantee that an editor will be "independent" of a publisher, however desirable the goal. To the extent that an editor is independent, it is a result of tradition, and, in rare instances, contract, but not a constitutional or statutory right. In the same vein, the Russian Mass Media Law uses the forms of law to accord greater rights than are typical in the West to those who work for the mass media. Under article 20, the journalists collectively have the right to approve the editorial charter—the mass media outlet's by-laws or regulations—by a majority vote, provided that no less than two-thirds of its membership is present and that the regulations are also approved by the founder. These regulations would cover the manner of appointing the editor-in-chief, the manner for ceasing operation, and the manner by which founders or publishers could be changed. In the United States it is unusual, unless reflected in the ownership structure, for journalists, as a body, to have rights independent of collective bargaining agreements.

Emblematic of past frustrations, the 1991 Mass Media Law in articles 38 through 40 guarantees access to government reports and provides for audiences or press conferences with officials. Because the Russian Mass Media Law confers special privileges on journalists,[20] the category of those so blessed must be legally differentiated. Article 49 provides a code of behavior: journalists are obliged to verify the reliability of information reported to them,[21] protect confidential sources,[22] honor requests for citation by those who provide information,[23] obtain prior permission when it appears that a news report will be an invasion of privacy,[24] notify those persons whose pictures have been taken,[25] keep superiors informed of possible lawsuits,[26] and refuse assignments that might entail violation of the law.[27] If a journalist does all this, article 49 states, the government then "guarantees the journalist protection

20 *See id.* arts. 47-52.
21 *See id.* art. 49(2).
22 *See id.* art. 49(4).
23 *See id.* art. 49(3).
24 *See id.* art. 49(5).
25 *See id.* art. 49(6).
26 *See id.* art. 49(7).
27 *See id.* art. 49(8).

of his honor, dignity, health, life and property"[28] as a person who performs a public duty.

As meritorious as these ethical goals for reporters might be, the imposition of such government standards suggests a relationship between journalist and government that is reminiscent of the sometimes velvet, sometimes steel, prison of the past. Journalists are, in article 47, provided special rights of access, including a kind of post-Chernobyl right to visit calamities, catastrophes, and places of "mass unrest and mass gatherings of citizens, as well as areas in which a state of emergency has been declared . . . ."[29] Somewhat chillingly, they are burdened with responsibilities as well. If journalists fail (for example, if they distribute false information which defames the honour and dignity of a state organ), article 48 provides that they can be stripped of accreditation by that agency. Because article 47 provides journalists with a right of access, there must, as a result, be a defined category of "journalist" who has more of a right than others to enter prisons, rummage through government files, or see what is going on in defense installations. Article 51 provides that the journalist is forbidden to use his or her privileged position to cover up falsification of information, to transmit rumors under the guise of truth, to collect information for unauthorized persons or organizations, or to distribute information "for the purpose of defaming a citizen or individual categories of citizens exclusively on the basis of sex, age, racial or national affiliation, language, attitude toward religion, profession, place of residence and work, or in connection with their political convictions . . . ."[30] Articles 59 and 60 provide a list of potential sanctions for journalists who are not true to these responsibilities.[31]

28 *Id.* art. 49.
29 *Id.* art. 47(7).
30 *Id.* art. 51.
31 One additional important measure of a mass media statute's treatment is the openness of a society to foreign sources of information. The Russian Mass Media Law demonstrates the desire for a state with permeable boundaries; article 54 asserts that the citizens of the Russian Federation are "guaranteed unhindered access to reports and materials of the foreign mass media." *Id.* art. 54. But article 53 authorizes "interstate contracts and agreements" with respect to foreign mass media. *Id.* art. 53. The circumstances of distributing such foreign publications can be decided by "interstate agreement," a phrase of complex ambiguity, which may include the right for bilateral decisions to limit transnational flows of information. In the 1950s and 1960s, the United States and the Soviet Union had an agreement in which the Soviet Union had the right to distribute a limited number of copies of *Soviet Life* in the United States, and the United States was permitted to distribute limited numbers of like publications in the Soviet Union. For a discussion of these agreements and restrictions on the export and import of film, as well as other attributes of the Cold War, see ELIZABETH HULL, TAKING LIBERTIES: NATIONAL BARRIERS TO THE FREE FLOW OF IDEAS (1990); *see also* Monroe E. Price, *The First Amendment and Television Broadcasting by Satellite*, 23 UCLA L. REV. 879 (1976). Under article 54 of the Russian Mass Media Law, where there is no such agreement, the foreign publication would apply to the Ministry of

The Russian Mass Media Law of 1991 remained an experiment in the use of the statutory form—laws arrayed on a page—as a way of fashioning a transition from control to greater pluralism. But the forms of law without a commitment to the rule of law is not sufficient. Dedication to complex terminology could not alter reality in the absence of institutions in which law could be interpreted and enforced by government officials and judges with a common commitment to pluralistic goals. Clumsy formulations, lengthy recitations, and awkward adjustments of old ways to new political realities could not suffice to ensure the evolution of a free press. The Russian Mass Media Law of 1991 was a breakthrough—a shining example of the move toward law as a means of assuring an altered public sphere and a more pluralistic national identity. The victory of passage, however, was followed by the recognition of the hardships of adjustment.

II. From Law to Force

In the brutal year after the dissolution of the Soviet Union, during adjustment to new realities, perspectives on the nature and function of law substantially altered. Deepening conflict over the distribution of power in the society meant that the dreamed of paradigm, a non-manipulated press, the hope of the media law, was impossible of immediate achievement. Like similar laws being considered elsewhere in transition societies, the 1991 law was largely about press immunity from government intervention, focusing on the rights of journalists against their publishers and editors, and the rights of citizens and journalists against the state.[32] But the earthquakes within the ruling order—the disputes for control among interest groups and institutions—meant that the goal of immunity was unrealizable. In the first years after passage, it was hardly independence, hardly the structuring of a public sphere that took center stage. Instead, reallocation of control of the media, especially television, became the harsh focus of struggle and political division.

Nothing in the 1991 law dealt explicitly with the allocation of power between branches of government, between the President and Parliament. But as the intense division among competing forces for public loyalty took place, the media was a flashpoint.

Press and Information. Article 54 singles out direct television broadcasting for special protection. No limitations are allowed for such programs except by prior inter-governmental treaties. *See* Russian Mass Media Law, *supra* note 5, art. 54.

[32] *See* Russian Mass Media Law, *supra* note 5, arts. 38, 39, 43–47, 49, 51, 59, and 62.

Controversy over the media's role in society contributed to President Boris Yeltsin's calling for new elections and the closing down of Parliament. Disputes over the division of media power, unresolved by law, would disintegrate into the storming of the great production facility that housed Ostankino, the massive factory of state central television. The text of law and the institutions for its interpretation could not hold the hostile energy within competing camps. Law and force alternated in defining the control of the media. As had proved to be true elsewhere in the transition societies, the appointment and dismissal of the chief officers of the state broadcasting service became levers for violent disagreement and the reimposition of state influence.

Private newspapers, freer than broadcasting, were also an arena for battles for control. As paper and printing costs skyrocketed in the post-Soviet period, government subsidies became necessary for survival for most publications. The 1991 Mass Media Law did not address the tensions that would arise in determining which journals would be favored by government largesse. Here, too, a dispute arose between the President and Parliament as to the criteria for distribution. An assertive Parliament sought to impose a legislative standard with the appearance of political neutrality, and suspicion mounted between that institution and the Ministry of Press and Information.

A dramatic example of the struggle for control was the status of the great newspaper *Izvestiia*. Established as its organ at the dawn of Revolution, the Supreme Soviet of the Soviet Union always had the newspaper under its direction and control. With the dissolution of the Soviet Union, the question of succession arose. Journalists voted to claim the paper for themselves, invoking the spirit, if not the letter, of the 1991 Media Law. Here was a test of the rights of journalists against the historic "founders" of instruments of mass information. For *Izvestiia*, as with much of the Russian press of the post-Soviet period, daily life consisted of the transformation of institutions which were the projections of political entities to institutions which would be independent of such organs and subject to owners, investors, and subscribers. The Russian Parliament claimed that as inheritor of the mantle of the Supreme Soviet, it controlled the editorial direction of the paper. The issue became especially important because, at a critical moment in the constitutional life of the nation, the influential paper, though once the child of the legislative branch, favored the President over the views articulated by the Parliament and its Speaker, Ruslan Khasbulatov. "Freedom of the Press" became a rallying cry for those sup-

porting the journalists and opposing greater parliamentary power. But a vote for freedom, here, as elsewhere, was also decidedly a vote for one side in a power struggle. The journalists succeeded and the victory was marked as a tribute to greater press autonomy. In fact, the outcome was also a measure of shifting political power.

The battles over control of the media escalated in 1992 and early 1993, reflecting the deadly enmity between President and Parliament, an enmity that produced governmental crisis after crisis. The crises served as a major justification for a national referendum on April 25, 1993 throughout the Russian Federation and the narrow adoption of a new constitution in December 1993. But the run up to the referendum itself produced an aggravation of government-media relations and the conclusion of the electoral contest did not improve matters. The April referendum tested the commitment of President and Parliament to a truly free press, though the flag of independence was waved by all sides, and the commitment was found wanting. Both the forces behind Boris Yeltsin and the forces of the opposition maneuvered for control of television, radio, and print media.

President Yeltsin's first decree, announced during the spring campaign, established a new effort to "protect" the mass media, under the President, as "the supreme official personage of the state" and as "guarantor of the rights and liberties of the individual."[33] His opponents saw the decree as a law designed to compel press loyalty. Citing its authority under the 1991 Law on Mass Media, President Yeltsin's Ministry of Press and Information, a few days prior to the April 25th referendum, initiated court action to close down two opposition newspapers, *Sovetskaia Rossiia* ("Soviet Russia"), and *Den* ("The Day"), on the grounds that they were abusing that law by fomenting inter-ethnic conflict and violence against the state.[34] In St. Petersburg, local authorities, who are supporters of the President, temporarily removed television commentator Aleksandr Nevzorov from the air in late March, claiming that his calls for volunteers to defend the Motherland against Yeltsin's "anti-constitutional coup" were a violation of the Mass Media Law's prohibition against appeals for armed insurrection.[35]

Just a month before the April vote, in the mid-sized city of

[33] For text of Boris Yeltsin's decree of Mar. 20, 1993 on protection of the freedom of the mass media, see *Yeltsin Decree Taking Control of the Mass Media*, BBC SUMMARY WORLD BROADCASTS, Mar. 24, 1993, *available in* LEXIS, World Library, Bbcswb File.

[34] *See Sovetskaia Rossiia To Be Closed, Too?*, MOSKOVSKII KOMSOMOLETS, Apr. 23, 1993.

[35] *See* Celestine Bohlen, *Home of First Revolution is Puzzling Over This One*, N.Y. TIMES, Mar. 26, 1993, at A8.

Saratov on the Volga, local deputies, who are opponents of the President, marched into the local television station and seized the microphone from a surprised reporter. According to a Moscow news account of the Saratov incursion, journalists during the old regime were instructed not to show empty wheat fields, or to show workers on their knees so that the wheat looked taller. These journalists fear that this may happen again.

Yeltsin's decree ordering that the press be guarded from hostile abusers of media rights was mild compared with the activities of the legislative branch and the President's opponents. The Congress of People's Deputies (the super-Parliament), angered by perceived imbalances in news coverage of the crisis that favored Yeltsin, passed its own Resolution, before the referendum, requiring the formation of its own supervisory councils (the membership to be chosen by federal and local legislative bodies) in order to "ensure objective coverage" and "prevent political monopolization" of broadcasting.[36] In addition, the Congress ordered government agencies to transfer to the Supreme Soviet their powers to start and partially supervise media activity. Aleksey Simonov, the head of the Glasnost Defense Foundation, said at the time that Russian television was only frailly an example of "fantastic pluralism." He cautioned against reading too much into the clash of opinions and the presentation of different sides of the great constitutional questions. According to Simonov, pluralism is the result of uncertainty about the future. Television remains government-controlled, but it is difficult to identify "government." Simonov observed further that the relationship between television and the state is governed by people and loyalties, rather than by law and constitution.

Typical of the Russian media war, and similar contests in other transition societies, was the invocation on all sides of the duty to protect the freedom of the press. Parliament strengthened and extended the power of supervisory councils it had established in the name of guaranteeing freedom. Oleg Poptsov, Chairman of the All-Russian TV and Radio Company, condemned, however, the "extraordinary hostility of the [Supreme Soviet] committee on mass media towards the mass media."[37] The President's Minister of Press and Information, Mikhail Fedotov, resigned on August 21,

[36] For text of Resolution No. 4686–1 of the Russian Congress of People's Deputies *On Measures to Ensure Freedom of Speech in State Television and Radio Broadcasting and News Services*, signed by R. I. Khasbulatov, Chairman of the Russian Federation Supreme Soviet, on Mar. 29, 1993, see BBC SUMMARY WORLD BROADCASTS, Apr. 7, 1993, *available in* LEXIS, World Library, Bbcswb File.

[37] *Heads of Radio and TV Companies Urge Yeltsin to Veto Amendment to Media Law*, BBC SUMMARY WORLD BROADCASTS, July 21, 1993, *available in* LEXIS, World Library, Bbcswb File.

calumnizing the Parliamentary observation councils that he claimed had already been set up and started to operate throughout the regions. "They are already dividing up air time. They are deciding who is to be shown and who isn't. Lists of desirable and undesirable speakers are being compiled . . . . The whole purpose of the game is to call freedom censorship and censorship freedom."[38]

The continuing duel among institutions brandishing competing media laws was one of the principal zones of bitterness between the President and the Supreme Soviet during the summer and fall of 1993. Finally, President Yeltsin's September 21 dramatic suspension and later disbanding of the Parliament led to the immediate institution of censorship. At least ten newspapers in Moscow were closed down following the violent events of early October,[39] and, at the outset, all newspapers were subject to censorship, having to submit material for government review before publication. On September 23, citing the Mass Media Law, the Council of Ministers ordered the suspension of additional media, namely the newspapers, magazines, and radio and broadcast programs of the Supreme Soviet. The Council's resolution declared that with the Parliament suspended, a new "founder" for its publications was needed, and the successor would be the government itself.[40] Shortly after the September 23 Council of Ministers' action, the government installed a new editor-in-chief at the newspaper *Rossiiskaia Gazeta*, Natalia Ivanovna Polezhaeva, who initiated radical changes in personnel and editorial directions. These actions brought her into conflict with the journalists on the paper who, in a September 27 meeting, voiced their unanimous objection to the takeover and claimed that the substitution of founders had been illegal.

When, in early October, the government ordered the suspension of "extreme" newspapers, including *Pravda*, *Sovetskaia Rossiia*, and *Den*, it was pursuant to "emergency powers." This also served as the basis for asserting prior censorship for two days over other publications including *Nezavisimaia Gazeta* and *Sevodnia*. A St. Petersburg daily, *Chas Pik*, reported that one censored item, a short

38 *Fedotov Resignation: "Last Resort" Protest Against Law On Media*, BBC SUMMARY WORLD BROADCASTS, Aug. 24, 1993, *available in* LEXIS, World Library, Bbcswb File.

39 *Eleven Opposition Newspapers To Be Closed in Russia Without Court Action*, BBC SUMMARY WORLD BROADCASTS, Nov. 16, 1993, *available in* LEXIS, World Library, Bbcswb File.

40 For text of the Council of Ministers Resolution *On the Legal Succession of the Powers of the Supreme Soviet of the Russian Federation in Respect of the Mass Media, Government Adopts Resolution on Take-Over of the Supreme Soviet Media*, see BBC SUMMARY WORLD BROADCASTS, Sept. 25, 1993, *available in* LEXIS, World Library, Bbcswb File.

report on the suspension of a number of newspapers, angered the censors not for the story itself, but for "the lack of exaltation" about the decision. St. Petersburg's *Vedomosti* ("The Record") published details on the suspension of Aleksandr Nevzorov's virulently anti-Yeltsin television program *600 Seconds*.[41] The order received by Bella Kurkova, chair of the television company, on October 5 was signed by Deputy Minister of Press and Information O. Yusitkov and Director of the State Inspectorate to Protect Freedom of Press and Information, Yu. Luchhinksii. The full text of the order (implemented by Kurkova) was as follows:

> In accordance with the introduction of the emergency rule in the city of Moscow by the Decree of the President of the Russian Federation No. 1578 of October 4, the Ministry of Press and Information of RF has been instructed to provide, starting from October 4, 1993, the execution of Article 23 (b) of the Law on Emergency Rule. Since the program "600 Seconds" on St. Petersburg's Channel 5, retransmitted in Moscow, stirs up ethnic, class, social, religious intolerance and enmity, we require you to stop its transmission to Moscow pending the lifting of emergency rule. If you cannot do it technically, you must suspend airing of TV program "600 Seconds" until our special instruction.[42]

The shift from law to force was epitomized by the bloody battle at Ostankino, one of the last acts in the conflict between President and Parliament. Except for the White House, home of the Parliament, and the Comecon building, housing the Moscow Mayor's offices, Ostankino was the only major site of massive struggle. An October night of violence left at least sixty-two people dead and scores wounded, members of the television staff and foreign journalists included. Cameras panning through the corridors and studios showed scenes of rubble and destruction. In doing so, the cameras revealed something else: that the control that comes from law is just a thin overlay beneath which the armed march, the terrorist act, the seizure of transmission towers, and the arbitrariness of censorship are ready to emerge.

III. STRENGTHENING OF THE RULE OF LAW

After the battle of Ostankino, a condition resembling the rule

41 *See St. Petersburg's "600 Seconds" Programme Suspended*, BBC SUMMARY WORLD BROADCASTS, Oct. 7, 1993, *available in* LEXIS, World Library, Bbcswb File.

42 Peter Krug, *Of Founders and Emergencies: Euphemising Censorship*, POST-SOVIET MEDIA L. & POL'Y. NEWSL., Oct. 20, 1993, at 4.

of law was reasserted. With increasing speed, new institutions were put in place and decrees issued reemploying the language of independence and free speech. Even the earlier acts of censorship were justified on the basis of law. The October close down of several newspapers had, as indicated, been based not only on the President's "emergency powers," but also article 4 of the Mass Media Law (authorizing closure if a publication engages in appeals for seizure of power; for violent change in the constitutional order or integrity of the state; or incitements to national, class, social, or religious prejudice or intolerance), as well as international human rights law.

In an obeisance to the reinstitution of law, President Yeltsin, who had just months earlier suspended the Constitutional Court, also established a new "arbitration tribunal" that would ultimately be transformed into a unique instrument for deciding and mediating information disputes.[43] With the disbanding of the Russian parliament and the announcement of elections to a new Federal Assembly, to be held December 12, 1993, the already-contentious question of media access became an issue of great concern among potential candidates. In response to critics who argued that the press was predominantly pro-Yeltsin and that the government continued to treat state-owned television as its own propaganda tool, Yeltsin included a provision in the Statute on Elections aimed at providing equal access to the media. According to article 28 of this statute, all mass media

> whose founding agencies include a state body, organization, or institution, or a body of local self-government, or mass media whose financing comes even partially from state funds or the funds of bodies of local self-government [were] obliged to afford equal opportunities with respect to pre-election campaign presentations to all candidates for deputy to the state Duma.[44]

Article 28 soon was expanded in the Statute on Information Guarantees, adopted October 29. In addition to dealing with questions of equal access and other matters, the new tribunal created by the Statute could issue warnings to candidates who in their campaigning made false statements "demeaning the honor, dignity [or] business reputation of candidates [or] their agents."[45] Both the Arbitration Tribunal and the Russian Electoral Commission in

[43] The text of the decree can be found in POST-SOVIET MEDIA L. & POL'Y NEWSL., Jan. 27, 1994, supp. at 1.

[44] *Statute on the Election of Deputies to the State Duma*, BBC SUMMARY WORLD BROADCASTS, Oct. 11, 1993, *available in* LEXIS, World Library, Bbcswb File.

[45] *Text of the statute and Decree on Access to the Mass media During Election Campaign*, BBC SUMMARY WORLD BROADCASTS, Nov. 10, 1993, *available in* LEXIS, World Library, Bbcswb File.

early December rejected the demand by First Deputy Premier Vladimir Shumeyko that the Communist and Democratic parties be removed from the election lists because they declared themselves against the proposed constitution.[46]

In December 1993 and January 1994, President Yeltsin and other officials issued a series of additional decrees relating to mass media, largely designed to establish a legal framework for a free press. These included a renewed commitment of financial benefits for the state broadcasting apparatus, including, temporarily, substantial outlays for signal distribution. A decree of January 10, titled Issues Ensuring Publication and Dissemination of the Mass Media and Printed Matter, called for preferential taxation of the print mass media, a system of state subsidies and improved access to printing facilities.[47] A decree guaranteeing citizens' rights to information, issued December 31, 1993, ordered news programs of state radio and television to "inform citizens without fail of the principal provisions of legal acts and decisions of state bodies on fundamental domestic and foreign policy questions on the day they are issued."[48] Of course, the order to promulgate government decrees, while increasing citizen access to information, raised the possibility of greater intervention in day-to-day editorial decisions made by state entities.[49]

In the wake of the December elections, Vyacheslav Bragin, who had been the head of Ostankino, was ousted—a reminder of the relationship between the forms of law and the exercise of power. Bragin's downfall was partly attributable to the results of the election in which nationalists had done surprisingly well and the results had not been as favorable to the government as had been hoped. Television was supposed to have the aura of fairness, but when it counted those in power wanted the unifying quality of television, its persuasive capacity, to be used in a way that would redound to the benefit of the Yeltsin reformers. In a move of considerable importance for the development of a pluralistic broadcasting system in Russia, linked perhaps to the failure of state

[46] *Tribunal Rejects Shumeyko Demand For Ban on Communists and Democrats*, BBC SUMMARY WORLD BROADCASTS, Dec. 2, 1993, *available in* LEXIS, World Library, Bbcswb File.

[47] *Decree Issued on Assisting Print Media*, Jan. 14, 1994, BBC SUMMARY WORLD BROADCASTS, *available in* LEXIS, World Library, Bbcswb File.

[48] *See supra* note 39.

[49] A year later, in late 1994, the State Duma sought to establish a set of rules "On the Procedure for State-Run Media to Cover the Activities of State Power" to assure more regular and more fixed coverage of legislative activities. A "Parliamentary Hour" program was reinstated.

television during the elections, President Yeltsin ordered the granting of a television broadcasting license to a private entity, NTV. The cause of pluralism and access was advanced, but the rule of law was nicked: the just recently established mode of awarding valuable channel rights seemed to be circumvented so that a favored (and talented) broadcaster would prevail.

Intense societal conflict, threatening the existence of legal institutions, was felt throughout early 1994, with the legitimacy of many of the new bodies (including the Duma and Federal Council) very much at issue. In the spring of 1994, President Yeltsin, to achieve a moratorium among contending forces, put forward a Treaty of Civic Accord, a novel instrument that was more a public relations device than a binding agreement among its signatories. The Treaty sought to place a frame around a debate that had, a few months earlier, erupted into battle. The Treaty could also be seen as an effort by those in a broad status quo position to establish standards of discourse that might discredit their most radical challengers. The Treaty provided that "the parties . . . consider that the grandeur of Russian history, with its heroic and tragic pages, obliges one to avoid simplified or insulting appraisals of the past and to prevent the distortion of historical fact."[50] In addition, under the Treaty,

> the parties . . . stress that love for the fatherland, freedom and moral duty to society, creative labor, all the values common to the whole of mankind, spiritual and moral traditions of the multiethnic people of the Russian Federation should become the basis for its revival. The parties to the treaty pledge to uphold, in word and deed, the norms of moral behavior in politics, the economy and public life.[51]

To render clearer the relationship of the press to this process of establishing a consensual social order, the Treaty provided that "a special role in all of this belongs to the mass media . . . the efforts of which should be supported by the state and society."[52]

By the summer of 1994, the Duma was also able to develop a draft statute on radio and television broadcasting to supplement and build on the 1991 Mass Media Law.[53] Passed on first reading

50 *Text of Treaty on Public Accord*, BBC SUMMARY WORLD BROADCASTS, Apr. 30, 1994, *available in* LEXIS, World Library, Bbcswb File.

51 Treaty of Civic Accord § 1, ¶ 5, Apr. 28, 1994, *reprinted in* POST–SOVIET MEDIA L. & POL'Y NEWSL., June 3, 1994, at 3–6.

52 *Id.* § 6, ¶ 1.

53 *Draft Russian Statute on Radio and Television Broadcasting*, POST-SOVIET MEDIA L. & POL'Y NEWSL., Dec. 10, 1994, at 1.

by the Duma on October 26, the draft statute not only maintained its rhetorical commitment to prohibiting censorship, but it also imposed on the state the obligation to employ the media for "the defense of public morals and morality, the strengthening of the family, and the confirmation of a healthy lifestyle."[54] Under the bill, government ought to ensure that broadcasters "satisfy[ ] the variegated informational needs of viewers and listeners"[55] and encourage the "wide distribution of education and culture."[56] The language of the bill also foresaw as an underlying principle of broadcasting "creating the requisite conditions for the maintenance and development of national culture"[57] and cooperating "in the formation of a law-based state."[58]

More unusual was a proposed law prepared in the summer of 1994 to take in hand, rearrange, normalize, and shift control of elements of state underpinning for financing the media. The draft, "On State Support of the Mass Media,"[59] was the creation of Mikhail Poltoranin, the powerful chair of the relevant Duma committee and former Minister of Press and Information, and it sought to address a number of demands and concerns of the emerging independent press. The proposal sought to reduce publishers' dependence on state printing monopolies and substitute indirect subsidies (such as tax relief) for existing, more onerous programs. The bill, as reported from its committee, like the government's earlier decree, was designed to provide favorable tax treatment for profits earned by editorial offices of mass media, publishing houses, news agencies, television and radio broadcast companies, and similar enterprises. Video equipment and printing presses could be brought into Russia free of duty. Media institutions would be able to keep foreign currency and use it to acquire equipment and materials. Favorable postal rates and special rents for the use of public buildings would be established. Equally important, the bill provided a scheme for the systematic transformation of all state-owned printing facilities used in newspaper, book, and journal output. Such enterprises would be privatized: up to thirty percent of the stock would remain in federal hands for three years, with the rest distributed to workers in the enterprises, newspapers, magazines, and book publishers that historically used the printing

54 *Id.* art. 1.

55 *Id.*

56 *Id.*

57 *Id.* art. 6(4).

58 *Id.* art. 6(6).

59 For full text, see POST-SOVIET MEDIA L. & POL'Y NEWSL., Dec. 10, 1994, supp. at 9-11.

facilities. A certain amount would be reserved for the general public as investors.

The most creative innovation of Poltaranin's proposal was the establishment of a National Fund for Media Development that would hold, for a limited time, the government's own stock in printing enterprises. This Fund would accumulate and invest funds to strengthen the printing and distribution structure for mass media and book publishing. It would be a vehicle which would manage funds and control stock in privatized mass media assets, such as printing press and book publishing operations. The Fund would work with the state as it determined its own "needs . . . for the solution of nationwide tasks in the spheres of upbringing education, culture, science and technology as well as the development of new printing technologies."[60]

In this respect, the Poltoranin approach sought to redefine a state role in ways that mediated between an American hands-off tradition and the practices of the Soviet past. The state would redefine its requirements in terms of purchases of books for libraries and educational establishments, in terms of encouragement of manufacturing, and in the redeployment of existing subsidies. The Fund was attacked by Sergei Gryzunov, the head of the government's Committee on the Press, who criticized the Fund as a new approach to monopolization, which accumulates and redistributes money according to those who are liked as opposed to those who are disliked.

Seizing the language of free enterprise, in the fall of 1994 President Yeltsin approved the privatization of Ostankino in a manner that seemed to equip it to compete more effectively with private entrants while, at the same time, maintaining control in government hands. Under the decree, signed November 30, 1994, approximately fifty percent of the company would be owned by the State Committee for the Management of State Property, with the remaining stock distributed among a dozen handpicked major companies. The "privatization" took place against the threat of the merger of the once-proud first channel into what had once been its mere appendage. The alternative to privatization and the injection of new financing was, for Ostankino, a slow and depressing decline and death. The increasingly combative Poltoranin attacked the plan on grounds clearly linked to national identity concerns.

While the resolution of control over the great instruments of state television seemed to become settled, elements of strength

60 *Id.*

among new independent competitors became more prominent. A joint venture in which Turner Broadcasting System was linked to Russian partners dissolved as those in Moscow found more favorable financing at home. Under the direction of Igor Malashenko, a young hero of television in the Gorbachev period, NTV, financed by Moscow bankers, posed a threat to central television's domination of the news, so much so that the government threatened to withdraw its license because of unfavorable coverage of Yeltsin's military campaign in Chechnya.

Notwithstanding the rhetoric of independence, there seemed to be a systematic discouragement of the growth of nongovernmental television even five years after the dissolution of the Soviet Union. Local and regional governments proliferated efforts to use television to produce and distribute information themselves, thereby increasing their control over the messages available to the public. A 1994 draft statute on the coverage of the Duma provided that the legislative body would have its own production capability and command time, at least on the state channels. Many municipalities and other local or regional bodies were gaining their own channels or participating in private channels as joint ventures. Enforcement of copyright law lessened the power of independents, depriving them of their ill-gotten lifeblood: pirated American films and cartoons. Discriminatory pricing of government-controlled transmission facilities and discriminatory taxes on equipment purchases inflated costs. In addition, the government, in the spring of 1994, ordered that the state channels should restrict the time independent entities were given as "windows" to broadcast their material. The market for advertising was being manipulated to injure small independents as the large state channels expanded the number of minutes they would sell. Independents saw the boundless appetite for advertising at Ostankino or Russian Television as a purposeful threat.

In this environment, official, philanthropic, and business entities from the West sought to buttress whatever they deemed to be moves to "independence," sometimes with little concern about the relationship among different forms of privatization, control, and political divisions. By the fall of 1994, USAID was moving to implement its Russian American Media Partnerships to foster independent television, radio, and the press, in theory because of the role they could play in enhancing and reinforcing democracy. These partnerships would help non-government Russian media organizations become independent, self-supporting institutions. In terms of objectives, the Agency provided three justifications for the

United States' aid to the internal press of a third country: First, a financially viable and politically independent non-government media sector is a mechanism crucial to government accountability; second, such a sector is useful in ensuring that the existing state media remains honest; and third, such a sector safeguards freedom of the press.[61] The USAID wished to diminish the leverage that the state continued to exert over the non-governmental press, because of its economic control of printing presses, distribution, and information networks.[62]

IV. The Future Role of the State

Defending his aggressive position in fashioning new media laws, Mikhail Poltoranin argued in fall 1994 that the strategic objective of Russia's information policy should be to "deepen democracy."[63] With the destruction of the totalitarian regime, "the importance of its mouthpieces—the central newspapers—fell off as well."[64] He blamed a decline in support for central television on its "propaganda for spiritual emptiness."[65] Society, he argued, "has grown tired of boundless freedom for impudence and slander, of freedom for instigation and political foppishness."[66] The state, Poltoranin argued, could no longer "continue a policy of peaceful nonresistance to evil."[67] He recalled how Ostankino and Tass "assailed"[68] Yeltsin and his associates from every point in 1990, leading to the creation of the All-Russian State Television and Radio Company ("Russian Television") and the Novosti Russian News Agency to "break the information blockade."[69] Now it was time for a new set of alternate forces to break a new information blockade.

Frances Foster has written that the initial Russian justifications for freedom of the press were strikingly similar to those of their United States counterparts.[70] Proponents argued that an independent Fourth Estate would expose and check potential abuses and "mistakes" by executive, legislative, and judicial branches. They would provide the citizenry with the "full and objective" information essential for democratic self-governance. A free press would assist in the spiritual liberation of the populace from the shackles of socialism and offer a forum for the introduction, comparison, and debate of reform proposals. A free press would "consolidate" Russian citizens in support of their embattled government during "a time of most difficult sociopolitical changes and economic trials."

Reality, Foster concluded, "has diverged markedly from these high-sounding phrases."[71] Leadership attempts to influence and subordinate the Russian mass media by direct and indirect political and economic means characterized the first years of transition. Escalating to the media wars of 1993, there was a rapid implementation of prior restraints on publication and restrictions on press access to information. In addition, numerous criminal and civil actions were taken against media organs, personnel, and draft legislation was introduced to expand liability for disclosure of state secrets and to punish publications that insulted top officials, attacked constitutional organs of power, or violated the "integrity" of the Russian Federation.

Observers committed to the freedom of the press, Foster wrote, attribute this backlash to the Russian leadership's unfamiliarity with, insensitivity to, and, ultimately, intolerance of Fourth Estate criticism and opposition.

> A closer look, however, suggests an additional, less obvious explanation. The recent moves against the media may reflect not only the early success of the Russian press as an embryonic Fourth Estate, but also its fundamental failure as a force for societal consolidation and moderation during a period of profound national crisis.[72]

Foster drew an important contrast between the American justifications for a free press and the Russian reality:

> One of the most compelling but least cited United States defenses for freedom of expression relates precisely to the issue of crisis management that confronts Russia today. In the words of Thomas Emerson, "freedom of expression . . . is an essential mechanism for maintaining the balance between stability and change." In the United States context, the press has tradition-

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61 *See USAID Document: US-Russia Media Partnerships*, Post-Soviet Media L. & Pol'y Newsl., July 19, 1994, at 3.

62 For further discussion of the USAID media partnerships, see generally *Internews, RAPIC to Manage $10 million USAID Media Partnership Program*, Post-Soviet Media L. & Pol'y Newsl., Oct. 15, 1994, at 1; *USAID Media Partnership Grants: Further Details*, Post-Soviet Media L. & Pol'y Newsl., Sept. 10, 1994, at 7.

63 *Poltoranin's Dreams and Hopes*, Post-Soviet Media L. & Pol'y Newsl., Oct. 15, 1994, at 6.

64 *Id.*

65 *Id.*

66 *Id.*

67 *Id.*

68 *Id.* at 7.

69 *Id.*

70 *See* Frances H. Foster, Izvestiia *as a Mirror of Russian Legal Reform: Press, Law, and Crisis in the Post-Soviet Era*, 26 Vand. J. Transnat'l L. 675 (1993).

71 *Id.* at 740.

72 *Id.* at 742.

> ally promoted this equilibrium in two main ways. It has acted as a "safety valve" for the release and "domestication" of popular discontent and frustration. Equally importantly, it has communicated to and persuaded the United States citizenry that established political and legal institutions and processes are both predictable and flexible enough to accommodate change.[73]

Enhanced press independence in post-Soviet Russia might, in this analysis, have contributed to a "destabilizing, not moderating, role."[74] In a period of turmoil, the Russian press, with its "unrelenting criticism and exposure of personal and systematic failings . . . eroded rather than fostered public confidence in the post-socialist Russian leadership and evolving norms, rules, institutions, and procedures. Thus, the press has demystified and delegitimized the present as well as the past."[75]

A central tenet of the United States' rationale for broad expressive rights, in Thomas Emerson's formulation, is that "an open society will be the stronger and more cohesive one."[76] But Thomas Emerson identified two limitations that may help explain what Foster identified as an apparent contradiction between general theory and Russian practice: "(1) 'society must be committed to democratic procedures or rather in the process of committing itself,' and (2) 'men [must] have learned to function within the law.' "[77] For Foster, the post-Soviet mass media experience provided ample evidence that Russia has failed to satisfy either of these requirements. Everywhere there is serious doubt about the level of current commitment to democratic procedure and enforcement and observance of law. "This prompts a perplexing question that has far-reaching implications for the reform process in Russia and other former socialist states. Is conventional wisdom correct that press freedom is a precondition for the democratic, law-based state? Or is the democratic, law-based state a precondition for press freedom?"[78]

73 *Id.*
74 *Id.*
75 *Id.*
76 *Id.* at 743.
77 *Id.*
78 *Id.* at 743-44.

Appendix

The relationship between force and law in the development of Russian media was illustrated in 1995 by the shift, with respect to the First Channel, from an entity under state control to one that was more of a joint venture between state and private interests and which would reflect a change toward direction less dependent on the state. The resulting body, conceived in late 1994, became known as Russian Public Television (or "ORT" in the Russian abbreviation). Its inauguration was marred when the first Executive Director of ORT, Vladislav Listyev, was murdered in his apartment building entrance, presumably because of policies he had announced concerning advertising on the new ORT.

This appendix is adapted from the *Post-Soviet Media Law and Policy Newsletter*.[79] The appendix includes accounts that were published in the immediate wake of Listyev's death so as to shed light on the financial and organizational structure of Ostankino and its proposed privatization and transformation into Russian Public Television. In the aftermath of Listyev's death, a good deal of information about advertising and Russian television was disclosed. Also, in this period, details were provided concerning the proposed ownership of ORT, the role of the Duma, and the President in the future of privatization.

We start, appropriately, with some reflections on Listyev and the hopes he brought to the job of heading the proposed more public, as opposed to state, Russian television. Writing in the *Financial Times*, John Lloyd saw Listyev's appointment as a comment not on disorder, but on how order was emerging, unheralded, from Russia's chaos. Listyev, according to Lloyd, represented a generation change.

> [He was] recognisable as a type . . . the post-Soviet 30-somethings, or the Komsomol generation. They are men (in nearly every case) who were already in their twenties when the Gorbachev enlightenment began; they were often active leaders in the Lenin league of youth (Komsomol), as was Listyev; and they were able because of their intelligence and ambition to see changes coming, to be attracted to capitalism and to hold their nerve in harvesting its first fruits.[80]

79 Post-Soviet Media L. & Pol'y Newsl., Issue 16, Mar. 17, 1995, published at the Benjamin N. Cardozo School of Law and edited by the author. For information about the newsletter, contact Monroe E. Price at the Benjamin N. Cardozo School of Law, 55 Fifth Avenue, New York, New York 10003.
80 John Lloyd, *Man in the News: Model for a Generation—Vladislav Listyev*, Fin. Times, Mar. 4, 1995, at 8.

Vladimir Gussinsky, owner of NTV, the principal private television channel, was quoted as saying, perhaps referring to this generational change, that the murder was "part of a broader campaign by hardline forces in Russia who are seeking to undermine freedom of the press and create pretexts for the move to a more authoritarian state."[81]

A. *What We Learn About Advertising*

From the first moment after Listyev's death, a link was hypothesized between his murder and the sudden decision of the new ORT board on February 20 that all advertising on Russian Public Television would be suspended as of April 1. For the American reader, the common understanding might be that the suspension of advertising was part of a move for television to become public in the United States' sense of the term, nonreliant or less reliant on advertising. That is not a proper reading. The board of ORT, scheduled to take over from Ostankino, had decided to ban only advertising, while restructuring its relationship with advertising companies. The action was taken, according to board member Igor Shabdrasulov, because large-scale advertising brokers had been dictating to the channel what it must do and how. Dressing up the economic consequences, he said that the ban was:

> aimed at determining the "proper correlation between advertising on the one hand and the interest of economic development and moral criteria on the other." He described the measure as "a temporary self-restriction" . . . . After reorganization, [ORT] would renew cont[r]acts with advertisers and their agencies [because] no complete ban was intended.
>
> According to Shabdrasulov, all losses would be offset by private shareholders. He refused to specify the amounts involved. Listyev was regarded as a supporter of the ban, ITAR-TASS said. Anatoliy Lysenko, director-general of the All-Russian State TV and Radio Broadcasting Company, warned against banning tobacco and alcohol advertisements on the grounds that advertising accounted for one-third of the revenues of all television companies operating in Russia and it was not clear how ORT would manage without them.
>
> The head of the ORT board of directors, Aleksandr Yakovlev [who would be later forced to resign], told ITAR-TASS that Ostankino had been accustomed to receive R5bn-R7bn in advertising revenue from agencies every three months. However, the newly created Reklama-holding company (as received) had received R35bn during the first three months of its existence but R30bn failed to reach Ostankino.[82]

[81] John Lloyd & Chrystia Freeland, *Yeltsin Pledges to Clamp Down on Crime: TV Chief's Murder Sparks Public Outrage*, FIN. TIMES, Mar. 3, 1995, at 5.

The shortfall, it must be noted, was because of agreements that had been entered contractually between Ostankino and the advertising brokers to assure a steady stream of income against the risk of a fall in advertising revenue (though revenue in fact went up sharply).

B. *Corruption and Advertising*

The *New York Times* quoted Ostankino sources as saying that they suspected a political motive for the ban: a government effort to squelch advertising by political rivals during the then-upcoming election campaign for the Duma. Others argued that the ban (and the earlier ban by president Yeltsin on tobacco and alcohol advertisements) was designed to make the new ORT more dependent on government financing. Similarly, the argument was made that among the participants in the advertising group the plan was to favor those who were closest to Yeltsin when advertising would resume.[83] In a superb in-depth *New York Times* article, on March 2, Steven Erlanger wrote that the Ostankino television network had been infamous for the corruption and chaos of its management. Somehow, independent producers had been allowed to siphon off most of the advertising revenue, leaving the network unable to pay employees adequate wages or other expenses. It was a cozy and, according to some advertising executives, hugely corrupt system.

The system was now under threat. Further changes lay ahead. Yegor Gaidar said that "Vladislav Listyev must have crossed the path of someone whose income was based on the illegal sale of advertising time."[84]

An article in the *Chicago Tribune*, datelined Moscow, was one of the few to suggest the stake that Listyev himself might have had in the financial changes being implemented at Russian Public Television.[85] James P. Gallagher characterized Listyev not only, as did others, as a beloved TV talk show host, but also as a big-time wheeler-dealer, a person who also headed a lucrative advertising

[82] *Vladislav Listyev's Murder; Listyev: Possible Link to ORT Ban on Advertising*, BBC SUMMARY WORLD BROADCASTS, Mar. 3, 1995, *available in* LEXIS, World Library, Bbcswb File.

[83] Steven Erlanger, *Russian Journalist is Slain; Profits May Be the Motive*, N.Y. TIMES, Mar. 2, 1995, at A10.

[84] Andrew Higgins, *Moscow's Dirty War; There is a Brisk Solution to Business Quarrels in Russia These Days, as TV Star Vladislav Listyev Found Out*, INDEPENDENT, Mar. 3, 1995, at 21.

[85] James P. Gallagher, *Murder of Top TV Host Shocks Russians; Muscovites Fear Gangsters' Role in Wheeler-Dealer's Death*, CHI. TRIB., Mar. 3, 1995, at 4.

agency. According to Gallagher, of the five companies that comprise Ostankino's production cartel (Reklama-holding), only one, Inter-Vid, the agency owned by Listyev, would be a major shareholder in the newly privatized ORT. According to Gallagher's account, Listyev, as executive director of ORT, would have been able to control much of the network's advertising through his own agency, Inter-Vid. Meanwhile, the other members of Reklama-holding would stand to lose millions of dollars each year by being pushed aside.[86]

How much was at stake? Gallagher quoted the average market price on Ostankino's Channel One as $11,000 per minute, with rates reaching up to $50,000 per minute for the most popular programs, including Field of Miracles, the quiz show produced by Listyev. "But only a small share of that income was being passed along to the network, a situation that the new owners of the Public Russian Television ("PRT")—including major banks and businesses—are determined to correct."[87] Of course, the pattern of payments could also be read as a bona fide business arrangement to guarantee Ostankino revenue at a time when the contracting parties did not know how valuable advertising time would become. It may be that as little as ten percent of the actual funds expended for advertising reached the network. And, of course, none of the so-called "jeans payments," money for secret favors and bought journalism (stuffed, in the early days, in the journalists' jeans) ever made it back to the budget of the network. It was this situation that PRT's board member, Shabdurasulov, had in mind when he said:

> We do not go along with the present arrangement between those who produce commercials and the agents who dictate to television what has to be done . . . . We prefer a different set of circumstances. Television should dictate to commercial agents and producers what the station's priorities are and what the relations between the three should be.[88]

On March 2, angry, confused and worried journalists gathered for a press conference under the auspices, in part, of the Union of Journalists. Here are excerpts from the briefing.

Vsevolod Bogdanov: We have gathered today for another tragic press conference. It is becoming a horrible tradition already. Last night, there took place a meeting of the heads of the TV companies of Russia. I have not ever attended a more dramatic

86 *Id.*
87 *Id.*
88 *Id.*

meeting. The subject of discussion was the reaction to the death of Vladislav Listyev. Andrei Razumov said, "There is no Vladislav Listyev, so there is no television, and let us switch off all our channels, and let there be no television until the assassin of Vladislav Listyev has been found." A long discussion ensued, after which the heads of the TV companies finally drew the conclusion that journalists should discharge their duty to society and provide information.

The decision was taken to shut down all programming with the exception of news programs till 7 p.m., when Listyev's program, *Peak Hour*, used to begin. After Vladislav Listyev's *Peak Hour* program today, which will be shown in commemoration of him, there will be another program, *Peak Hour of the Authorities*, in which leading journalists, editors-in-chief, and heads of TV companies will participate.

Today, the Union of Journalists of Russia has been receiving dozens and hundreds of facsimile transmissions, cables, and phone calls from all sorts of places, including Yakutia, Azerbaijan, Tatarstan, and many other regions. There have been phone calls not just from our colleagues, but also from TV viewers because everyone knew and admired Vladislav Listyev and believed him. And I believe that many people tried to imitate him; they wanted to be like him. They wanted to borrow some of his optimism, his vitality, some of his gusto because in these difficult, terrible times, this is something that we all miss. But there is, however, an equally important circumstance.

Everyone is unanimous in assessing what has happened. Everyone has the same position concerning what is happening, concerning the reason why journalists get killed. The reason is the same one which impelled the troops, the Reds and Browns, to charge Ostankino last fall. Unfortunately, neither the authorities nor society benefitted from that lesson, although it should have provided a telling one. After that the only thing that the authorities did was to erect a rickety fence around Ostankino and to beef up the security guard. But they failed to do the most important thing, that is, developing a television market and a market of the press and of advertising. The most important thing has not been done.

Television and the press as a whole are not protected against the feuds between political parties and financial groups for power and for money. The authorities, and I mean the President, the parliament and the government, should have adopted such laws that would make the success or otherwise of our television and newspapers dependent only on the consumers of information, on

the audience. Unfortunately, all our initiatives—and we have been submitting draft legislation, draft decrees of the government—but all this is of no avail. The latest law, the law on television, suffered a debacle in parliament, which rejected it. Lawlessness has exceeded all limits. If we do not take extreme measures now, if we do not force the government and the parliament to protect the press, I think even more terrible upheavals lie in store for society.

Speaking at this press conference I would like, on behalf of the Secretariat and the Union of Journalists, to accuse the bureaucracy, because I consider bureaucrats to be the bitterest enemies of our life. Bureaucrats have become the most influential party, the decisive force in society. It is they who are preventing the adoption of all these documents which are critically important for television and radio and so on. I can cite several resolutions written on these draft documents by President Yeltsin and Viktor Chernomyrdin. They write that this is necessary and urgent and soon. However, the approvals stage begins and the bureaucrats brilliantly kill all these drafts because the bureaucrats are trying to control the press with the same zeal as political parties, financial groups, and mafia-like structures.

I would like to give the floor to the Chairman of the Committee for the Protection of Journalists Rights, Pavel Gutiontov.

Gutiontov: Dear colleagues, three days ago the Chief of Information of the President's staff publicly accused journalists of attaching too much importance to the death of their colleagues. It struck me as insulting and cynical. Three days later we have another sad occasion for incurring another rebuke for attaching too much importance to our life, to our work, and to our fate. Today the Union of Journalists of Russia and our Committee have prepared a statement which I will read to you.

C. *Statement of the Union of Journalists of Russia and the Committee to Protect Freedom of Expression and the Rights of Journalists*

The assassination of Vladislav Listyev, our colleague and friend, a brilliant journalist and talented organizer, a person who had just become the head of public television in Russia, became another link in the disgraceful chain of unpunished terrorist acts against the people in our profession. The death of Listyev has highlighted to this country and to the whole world our defenselessness in the face of the mafia from which we cannot shield ourselves by the thin newspaper page or the fragile TV screen.

This crime has again highlighted the true worth of the statements of top executives on their commitment to freedom of expression, and their respect of our work.

When the President, in his Address to the Federal Assembly, again repeats the long-evident fact that journalism has become a hazardous occupation and calls for protecting journalists against any pressure, let alone insults and physical attacks, we have the right to demand not only words but also tough and decisive measures to enforce the law.

The fact remains that no assassination of any journalist has been investigated to the end, and insults and calls to stage a pogrom against the press are heard with increasing frequency even from the highest rostrums.

The assassination of Vladislav Listyev again demonstrates the absence of civilized rules of the game in the mass media, especially electronic media. Television is, before our eyes, turning into an arena for clashes of economic interests which are alien to journalism, with relations assuming a patently criminal character. The authorities, absorbed as they are in politicking, are not taking any measures against it. We demand that the masterminds and executors of this and other crimes should be found and punished. We demand to call to account the heads of those state structures which are unable or unwilling to perform their duties. We demand that the compliments lavished on the press should be replaced by real deeds.

Bogdanov: The editor-in-chief of Obshchaya Gazeta, Yegor Yakovlev.

Yakovlev: Our life is such that the most tragic and grievous things occur. Last night all the channels reported what happened to Vlad, but Channel 1 continued to broadcast a soccer game uninterrupted. And when I learned today that Mr. Yerin had been appointed to direct the investigation, I decided that I had not seen anything more trite and disgusting in my life. The man who is directly related to the criminal revolution taking place in our country will now investigate the assassination of our colleague. I think that all of us have been maintaining the same position until now. We have been urging the government, the President, Chernomyrdin, and others, expecting them to find an opportunity to reply to us. And they have been deliberately lying to us.

D. *Response of President Yeltsin*

After Listyev's murder, President Yeltsin took the highly unusual step of traveling to Ostankino's offices and meeting there with its chair, Alek-

sandr Yakovlev, and with a large group of Ostankino's journalists and staff members. Here is a partial transcript of the proceedings there:

Yeltsin: A tragedy has occurred, a tragedy for journalists at Ostankino, for all journalists in Russia and for the whole of Russia. The tragedy of a criminal killing, a cowardly, evil murder of a very talented world television journalist, that of Aleksandr Nikolayevich ("Yakovlev"). At any rate, he excelled at Ostankino. This is not the first occasion when a journalist has died. There are motives which the state cannot uncover, which the government and President cannot deal with, which the Prosecutor's Office and the administrative bodies cannot deal with. Evidently, there is something in the situation in which Ostankino journalists themselves are working.

Without a doubt, things are different in Moscow, especially from the point of view of such criminal killings. In Russia, there is no anarchy or irresponsibility within the administrative bodies, there is no sloppiness equal to that in Moscow. Leaders, including municipal leaders and those of administrative and internal affairs bodies, are turning a blind eye to the *Mafiosi* merging with various commercial structures and the *Mafiosi* merging with administrative and internal affairs bodies.

I think that, if it is taken into account that Moscow is separated, separate and that the administrative bodies work separately from the Interior Ministry bodies, the dismissal of the Moscow prosecutor and the head of the main Moscow internal affairs directorate would, of course, be too small a price to put on the life of Vlad Listyev. This will be justified because here we are talking about human life, whilst in the former case it is only dismissal from work.

Of course, this is yet another lesson for us, a lesson showing that whilst being afraid of ourselves and of turning Russia into a police state, we are afraid to step up the struggle against these criminal formations. In Uzbekistan six groups of bandits were simply executed by firing squad in one go; they were executed by the internal affairs bodies! And the situation has immediately started to improve. I am not calling for a state of emergency. No, we do not need a state of emergency. Taking into account the fact that today I forwarded a new law on the Prosecutor's Office and a new law on increasing accountability for criminal offenses and violations of law by all bodies and all managers to the State Duma, this should have an effect. The Prosecutor's Office has enough toughness and strict approaches to make mafia groups shudder and feel

that there will be no let up here. It seems that this is the only way to enable us to stop this wave of crimes, violent crimes.

I could not fail to visit you at this time and I bow my head before you as one of those leaders who has taken insufficient measures to combat banditry, corruption, bribery, and crime. In addition to this I would like to say that I supported and will continue to support Ostankino. I will sign a decree on certain changes, so to speak, which has already been drawn up. All this is for the benefit of Ostankino, for its benefit. I understand how hard it is for you now. It is hard for all of us. Nevertheless, we must recall once again how Vladislav Listyev worked and follow his example. I express condolences to the entire workforce, to all of you, his friends and relatives, and of course to the family of Vladislav Nikolayevich.

Presenter: Ostankino chairman Aleksandr Nikolayevich Yakovlev also spoke at the Russian President's meeting with journalists at the television and radio company.

Yakovlev: We, too, must all be full of journalistic solidarity, so that we don't argue amongst ourselves and so we can use our words and our pens against those who are stubbornly trying to turn our country backwards. Pay attention.

Yeltsin: Together, all together.

Yakovlev: Yes. Pay attention to what I want to say about this. If you look at the list of murders, it is perfectly clear that these people were supporters of freedom and supporters of reform, supporters of our progress, supporters of the democratic system which we have. They were supporters of the President. So, while I do not want to seek out the guilty prematurely or to make any specific accusations [that is for others to do], I would like to say one thing: I believe that ultimately this was a political murder, ultimately it was a political murder [repeated as heard]. So that what the president has said about taking measures means taking political steps.

E. *Interview with Aleksei Simonov*

Aleksei Simonov, the head of the Glasnost Defense Foundation and a long-time champion of journalists' rights, gave an interview, after the murder, to Nicholas Pilugin, the editor of Media Developments, the newsletter of the Media Assistance Clearinghouse in Moscow.

Pilugin: Was the murder of Vlad Listyev part of an effort to stop the transformation of Ostankino into a public television network, or was it an attack on the Russian President and the government?

Simonov: I won't attempt to judge that issue. I think that the

murder arose internally. That is, it is connected, first and foremost, with economic and not political issues. Vlad was not a political journalist. In fact, it was this fact that led to his popularity with the people. In the absence of any partisanship, Vlad was more identified by families as their representative. He asked questions which did not indicate his political passions, but which indicated his human interests, even if he was interrogating a politician. In this sense it seems to me that this was not so much the murder of Listyev the journalist, as the murder of Listyev the businessman. But we have to take note that for the first time these two already long chains of murders—the murders of journalists and the murders of businessmen—have at last become linked. . . .

Pilugin: But as general manager of public television he was fulfilling a political role.

Simonov: So far we don't know what role he was fulfilling. You and I do not have a single published document signed by the general director of Ostankino. We do not have a concept or plan for Ostankino signed by Listyev. We have only heard that Ostankino plans to cancel advertising. Then we heard that in fact it does not plan to cancel advertising altogether, but only for two months. Nothing has been determined. For this, there is no legal basis. In principle, if this was to be public TV in the example of the BBC, then what is the talk of shareholders about [the Russian government was to hold a fifty-one percent stake in the new company, private investors forty-nine percent]? There can't be any shareholders. Isn't it true that the BBC has no shareholders? And at the same time, the BBC thankfully has no advertising. So it is doubtful that shareholders would have invested money in a public TV company which has no advertising. After all, what return would they receive? I would say there is much here that really has not been thought through. I don't know for what reason all of this was being done behind closed doors. Maybe on the principle that they did not want to reveal their discussions, decisions, and answers with regards to their strategic policy, their programming policy and so on. While in principle you could say that this company, which by all indicators along with the government was to belong to three companies: VID, RenTV, and Avtorskaya Television, although this is something I don't want to say, even though the best Ostankino programs definitely are produced by these companies. But then within this company it would be necessary to decide which portion of programming they would be required to accept from non-shareholders in order to avoid becoming a monopoly. There is an entire list of things that should have been announced simultaneously

with the decision to form public television. But none of this was released. . . .

Pilugin: Do you believe that things would have come out differently, that Listyev would still be alive, if they had done everything out in the open?

Simonov: I don't know; it's entirely possible. I am firmly convinced however of one thing: that only *glasnost* (openness) will defend journalists. If a journalist is able to publish information about threats made against him, sometimes this stops things from proceeding further. I just read a monitoring report on correspondent Boris Resnick (Izvestia correspondent in Khabarovsk). He was being threatened with murder. His house, his family, and office have been placed under protection. I think that under these circumstances the mafia will think twice because it is becoming risky for them. It's not that he can't be killed; anyone can be killed. But it becomes more risky, and this is something entirely different. They now become not just the enemies of Boris Resnick, they become the enemies of the state. . . .

Pilugin: What does the murder of Listyev mean specifically for journalists and Russian journalism?

Simonov: On the one hand, it means that if it is possible to kill one of the country's most popular journalists, if not the most popular, then in principle any journalist is not safe from such actions and no one can guarantee his security. It follows that all of us face this danger. On the other hand, it means that many today will face the question: should I take the risk or not? I repeat, again, that while this was not the main issue as far as Vlad was concerned, for other journalists this condition of indefensibility which we now feel is a very important factor in self-censorship. Psychologically it is very difficult.

Pilugin: Have you heard of any journalists who say they are now going to be more cautious?

Simonov: No, I've heard something else, but this was in connection with the emotional reaction to the death of Vlad. I heard from his colleagues that they are ashamed, even more ashamed to be afraid now after what has happened. But what a person says publicly and what he says to himself can be entirely different. And without doubting anyone's declarations, I think that once the shock of what has happened passes, people will have to think of their own fates in the context of what happened. It's also interesting that for the first time in four years of the foundation's work, indeed the day before the murder of Vlad, we received anti-Semitic and pro-fascistic messages on our answering machine. . . .

Pilugin: Russia seems to center on Moscow. Here, the murder of Listyev evoked shock. What about outside Moscow?

Simonov: In this sense, I think that Vlad was a Russian personality, by no means just a Moscow personality, and the shock of his death is a shock to all of Russia. The thing is, out in the regions the journalists have it even harder. In Moscow, thanks to the large number of publishing houses, to the great unity among journalists, and the fact that the Journalists' Union here is fairly strong, along with other organizations, a result of all of this is that the safety net for journalists here is stronger. In the provinces it is significantly weaker. Aside from this, it's fairly obvious, as strange as it may seem, that the provincial press is divided along lines of political viewpoints. If we take Moskovskii Komsomolets and Nezavisamaia Gazeta, for example, they don't care for one another. But in this situation between them there are no conflicts. But I've been in several provincial cities and there the press has divided not along lines of pro-government or anti-government. The press has divided on the lines of "we're with them, you're with them," on the principles of their political views on the situation. This is a very dangerous situation because, as things now stand, when each person can only afford to subscribe to a single newspaper, he subscribes to a newspaper which is closest to his viewpoints. That means that the newspaper does him little good. A newspaper which only supports my viewpoints will not enable me to grow as a citizen. I have no one with whom to engage in dialogue. This further strengthens the importance and influence of television, specifically for this reason. Aside from this, the regional press is growing, strengthening, and may God grant it strength. But this disconnection, this partisanship, is not so much due to divisions in society, but too often to the competing interests of publishers.

Pilugin: In the end, what do you think the result of Listyev's murder will be?

Simonov: More than anything else, I am afraid that Listyev's murder will be utilized by forces thirsting to wield a firm hand, that the murder of Listyev will justify legal actions which will allow totalitarian structures to rise on the remnants of democracy which exist in this country, or out of our embryonic democracy. This is what I fear very much.

F. *The View of Yeltsin's Critics*

In this article in Rossiiskaia Gazeta, a perspective from within the Kremlin is evident, quite critical of journalists who hold Yeltsin responsible,

as might be expected in the presidential newspaper. Vladimir Verin is a writer who had appeared in Pravda during the Gorbachev years and before. This version of the article is adapted from Rossiiskaia Gazeta, p. 1 and 7, March 6, 1995.

Russian TV, during the past several days, has demonstrated that it is capable of everything. It has demonstrated that it is capable of creating a political show out of the most intimate and sacred feelings of the human soul—bereavement and prayer for the dead. . . .

Apparently, TV, radio, and the press decided to drive us crazy. From morning until late at night the media have been trying to drive us into a state of shock and hysteria, trying to make all of us spill out into the streets so that a powerful wave of public protest would sweep away the anti-popular power under which such journalists as Listyev are murdered in cold blood.

The decision to turn prayers for the dead into a protest action was taken by TV leaders last Wednesday night and when people switched on their TV sets Thursday morning, all they saw was a portrait of Listyev with only one word under his name: Murdered.

But the most repugnant and horrible thing in that show was the manipulation of the natural, sincere, and innermost feeling of compassion for a MAN who was killed. Precisely, a MAN irrespective of who he was—journalist, businessman, parliament member, or farmer. . . .

That manipulation began at noon last Thursday in the House of Journalists at a jamboree that the editors in chief of Moscow newspapers, heads of TV companies, journalists, actors, etc. called a press conference.

One editor in chief after another harangued those present, urging them to declare a total media boycott of the President, government, and parliament. The speakers at the press conference singled out two main points: all branches of state power in Russia are criminal and that is why the media should boycott them; and second, not the people, not the electorate, but the media and those working in the media must and shall determine the future course of Russia's development.

It was with loud applause that those present welcomed the words of *Obshchaya Gazeta* Editor-in-Chief, Yegor Yakovlev, that . . . the President had lied to us, . . . Stepashin has lied, . . . very many have lied to us, . . . and that is why all journalists must declare a general strike . . . until the President comes here and explains to us what he has led the country to.

There probably would not have been any big trouble if

Yakovlev's weekly shut down for some time. Doubtlessly, its subscribers would have managed to do without it somehow. But to call for a strike by all the media, including electronic, if set into motion, would already be a prelude to a state coup which today's seekers of the truth probably want so much.

It was one in the afternoon on the first day after the assassination and not one of the investigating bodies had yet offered its version of the motives behind the killing, but those at the House of Journalists had already come up with plenty of versions of their own. And all of them clearly defined the political motives of the slaying.

One editor-in-chief went so far as to claim that it was the state which had set out the contract. In fact, he considers that the Deputies, the power ministries, and even the President benefit from the murder of Listyev.

President of TV6, Eduard Sagalyev, went even further. I absolutely do not believe in any kind of a dialogue with those in power today, he pronounced. He urged the journalists to call a boycott . . . to the victorious end, and then the journalists will bring everything into order in the country.

The jamboree ended with a decision to meet at the Ostankino TV Center that evening and, in a live program, to tell the country's leaders everything they thought of them.

But the President of Russia came to Ostankino. And it so turned out that it was not the journalists who brought the President to his senses, but the other way around. In a very quiet and soft manner, Yeltsin pointed out that there was something at Ostankino that had served as the cause of Listyev's death. He named those officials who were responsible for the rampage of crime in the capital, although he did not give all the names, the author remarks.

Although many speakers at the noon press conference had claimed that those in power were powerless and impotent, something new in principle seemed to emerge at the evening meeting in Ostankino. It was possible to sense in the atmosphere a kind of fear that those in power could suddenly show their strength and really get down to placing things in order.

Yet another thing that leaps to the eye from the Ostankino gathering is that very many people there were clearly trying to score political points for themselves on the most terrible thing in life—on the murder of a human being.

The West's reaction was loud and clear, and most desirable for Russia's TV bosses. In particular, Air Digest (No. 42) holds that the

program from Ostankino demonstrated that Russia's TV is . . . a truly fourth power elected by the people. To this, there is practically nothing to add. The fourth power in our country has indeed become a real political force that has decided to declare war on all the other branches of power. However, I beg to disagree with the assessment of the fourth power as elected by the people. Not in the least! This fourth power often acts as an anti-popular and anti-state force, as an element that regularly and stubbornly tries to destabilize the situation. But if this power was indeed elected by someone, what have the Russian people got to do with this? the author queries.

Radio Liberty recently broadcast a phrase by Italy's Foreign Minister who purports that watching Yeltsin on TV, one may come to the conclusion that he is unable to control his actions. Our Western partners are no longer shy when it comes to finding a new President for us.

And if this were not enough, they no longer make a secret of the fact that [Russian] TV has become both a source of information on the basis of which they interfere in our internal affairs, and a political force thanks to which these partners are carrying out their plans in respect to Russia and are trying to shape Russia's future history. However, in my opinion, it is still a bit too early for them to rub their hands in glee.

G. *The Duma Seeks to Impose its Legislative Will*

Not surprisingly, in the wake of the Listyev murder, the future of the entire Ostankino privatization plan became subject to greater scrutiny and more politically volatile. The Chair of the Duma Committee on Labor and Social Support, Sergei Kalashnikov, had, three weeks before Listyev's murder, urged establishment of a commission to examine the privatization of Ostankino, calling it probably the most mysterious reorganization of the past three years.

Kalashnikov criticized the privatization as outside the President's authority and also without any tender or investment contest. In his view, Ostankino was preposterously undervalued in terms of the contribution required of private investors for the shares they received in the new entity's assets. On Friday, March 10, the Duma was only twenty-eight votes short of passing a nationalization of much of Russian television. The action, almost successful, was headed by Vladimir Zhirinovsky, who called his initiative another velvet revolution. Instead, it passed a moratorium on privatization at the first reading.

With the question of the future of the privatization at stake, Aleksandr Yakovlev addressed the Duma and was influential in gaining a moratorium on requests for a moratorium. Here is a transcript of an interview with him on Radio Mayak after his appearance before the Duma.

[Presenter]: There were very heated debates at the State Duma today [10th March] on the subject of the television companies. At the suggestion of LDPR leader [Vladimir] Zhirinovskiy the deputies even made the decision to debate nationalizing television as a whole. But first they heard the directors of Ostankino and Russian TV and radio broadcasting. Aleksandr Nikolayevich Yakovlev, chairman of the Ostankino TV and radio company, was to the point. [Yakovlev] Today we are living through a period of transition. It is very difficult and painful. In the past year 1,750 people have lost their jobs. Nonetheless, the process is under way and there have been no particular rows if there have been any at all. Ostankino is now setting up a number of independent studios. We intend for them to exist and work independently. However, for a number of international reasons, the sports studio must be left alone. And out of financial considerations we will probably be asking the government to fund the folk art studio [Russ: studia narodnogo tvorchestva]. Ostankino retains four radio channels which are now threatened with cuts. Roughly half of their broadcasting is at stake. In the main, we're talking about Mayak [Russian Mayak radio] and even Yunost [radio]. Broadly speaking then, if the Duma does not change its decision and fails to give us the money to maintain state radio [unfinished sentence]. As far as Ostankino is concerned, why has the question of its privatization arisen? This constant petitioning for money for each quarter, this having to prove that the country needs to have a television service, is tedious, to put it quite mildly. And then, too, both the government and the esteemed Duma have this year, like last year, taken, to put it mildly, an extremely flippant attitude towards funding Ostankino and the other channels. While the Ostankino company required R943bn in 1994, the State Duma approved R508bn and the amount actually given was R453bn. If we had not made use of advertising there would have been only five to six hours of broadcasting a day.

The requirement this year was just over R2,000bn—television required R1,000bn while radio required R812bn [figures as received]. The Duma approved R175bn. We received R20bn in the first quarter. I wonder who can explain to me how we can continue to exist and maintain television and radio services on that sort of money? Clearly there will have to be cuts . . . .

And thus the conclusion that we will have to privatize. A privatization whereby the state retains the decisive package of shares. And that is what has happened. The state retains fifty-one percent and the shareholders receive forty-nine [percent]. We have delegated the percentages in the states package—for instance, Ostankino's nine and TASS's three—to the State Committee for the Management of State Property in order for that committee to deal with that fifty-one percent, in accordance with the trust agreement.

Furthermore, the regulations stipulate that none of the shareholders has the right to sell any share without the permission of the council of directors and without the permission of the government.

[Presenter]: In a long and frank talk Aleksandr Yakovlev replied to literally every question. And do you know, the deputies' emotions subsided. They did not return to the subject of nationalization and it was decided to allow Ostankino a special means of privatization. As you heard, our own Mayak was included in the discussion . . . .

[The Duma session on 10th March passed a draft law on the media in its first reading, which imposed a moratorium on the privatization of broadcasting, according to Interfax news agency.]

The Duma and the President are still engaged in a dance of competition over the future of the First Channel. For example, in late March, just before the launch of RPT (or ORT), the media sub-committee of the Duma, headed by Igor Yakovenko, threatened to go to court to enjoin the transfer. In the first week of April, the Duma gave its approval to a law which would suspend the privatization of Ostankino which, according to a presidential decree, was, in substantial part, to become a joint-stock firm with fifty-one percent of the stock belonging to the state. President Yeltsin and the new entity, ORT, ignored the Duma-passed bill on the ground that it had not been approved by the Federation Council. Thus, five days after the ORT began its first broadcasts, the Duma purported to ban the financing of the company and suspend its privatization and broadcasts until a federal law on privatization of the state TV and radio is adopted.

H. *Antagonism of Igor Yakovenko*

The intensity of feeling is caught in this transcript of an account of the events, prior to the Duma's action, from a show broadcast on the Second Channel, Russian TV.

Announcer: The sale of the Channel 1 shares and the transformation of Ostankino into a private joint-stock company ought to attract the attention of law-enforcement bodies, said Igor

Yakovenko, chairman of the Duma mass media sub-committee, at a press conference today [27th March].

Yakovenko: At present, we are investigating the possibility of submitting an application to the Constitutional Court and to the Arbitration Court in order to clarify the legal basis for what is happening.

Correspondent: However, Igor Yakovenko did not clarify what legal irregularities he was referring to. He said that at present an application to the Constitutional Court was being prepared. As for the political aspect of the creation of the Russian Public Television, the so-called RPT, Yakovenko believes that not everything is in order there either. The RPT management will be headed by leaders of two parties, Aleksandr Yakovlev and Sergey Blagovolin [then a member of Presidential Council].

Yakovenko: What happens is that the first state channel has been surrendered to a certain political group, and in the wake of the parliamentary and presidential elections such a monopoly is extremely dangerous.

Earlier, Yakovenko, contributing a feature to the Sovetskaia Rossiia newspaper under the title, *A Structure of Lies*, has been a major thorn in terms of the stability of the new enterprise. Yakovenko, a member of the Yabloko Parliamentary group, wrote that "an entity called Public Russian Television is not public at all. What was set up in our country under the title ORT is a hybrid of state and commercial television and is not public in any way," he stressed. In Yakovenko's opinion, this structure, called public television, was based on lies and created to mould the conscience of Russian people to suit some forces.

I. *The Hostility of Sergei Kalashnikov*

In an article in Komsomolskaia Pravda, Sergei Kalashnikov, Chairman of the Duma Committee on Labor and Social Welfare, wrote that:

> [f]ears that the State Duma intends to "nationalize" the Ostankino television company by suggesting "a special procedure for the privatization of government-owned organizations of television and radio broadcasting in the Russian Federation," a bill now under Parliamentary consideration, are ungrounded. There is no need for nationalization—the Public Television company is essentially an enterprise jointly owned by the government and business interests, according to Sergei Kalashnikov.
>
> Fifty-one percent of the Public Television company's shares belong to the state, with the State Property Committee having thirty-six percent, he pointed out in an article. The fifteen man board of directors includes six shareholders representing the state and state-owned enterprises. Moreover, according to the company's Charter, candidates for those posts shall be nominated by the Government.
>
> Ostankino is financed by the Government from taxpayers' money. In 1994 the company asked for 1.3 trillion rubles from the Federal budget but received 320 billion and got another 220 billion by way of profits from advertising. The other 700 billion is likely to remain in the form of a debt to the state, a debt that will in all probability be written off. This year the company will require an outlay of 2.3 trillion against 320 billion as provided for in the federal budget. The company cannot hope to get much additional revenue from advertising or business interests; its wealthy founders like Boris Berezovsky, President of the LogoVAZ consortium, have no intention of investing in the company—their purpose is to line their pockets with profits as soon as possible. The board of directors includes quite a number of people like First Vice Premier Chubais and Gazprom's head Vyakhiryev who by virtue of their high posts are unlikely to be concerned with the day-to-day running of the company. This leaves only four members who can and will have a decision-making role, and three of them are people of the Berezovsky team.

Writing in Nezavisimaia Gazeta, Kalashnikov and a fellow drafter of the Duma law on radio and television privatization, Sergei Burkov, defended their law, passed in the third reading on April 5, against attacks by the new owners of PRT, the privatized version of Ostankino, the major national network broadcasting on Channel One, and their supporters from among popular television personalities. The latter—Eldar Riazanov, Vladimir Molchanov, Alexander Shirvindt, Alexander Liubimov, Yuri Rost, and Alexander Nevzorov—denounced the law in a discussion and called for a presidential veto.

In the first place, Kalashnikov and Burkov wrote, it was several thousand people working for Ostankino, rather than the Duma, who grew indignant over how a group of very rich people— Berezovsky, Blagovolin, Boiko, and some others—as well as a number of high-ranking state officials, the current television boss, Alexander Yakovlev, included, went about privatizing Channel One. The whole thing had been arranged, they wrote, in the course of behind-the-scenes negotiations which lasted for about a year, with a private limited company formed as a result, getting the national property worth billions of dollars for a mere ten billion inflated rubles.

Secondly, they wrote that their law on privatization does not purport to introduce political censorship on television, as claimed by Riazanov and his ilk, but only cuts short the legal chaos engulfing the privatization of the electronic media, Ostankino among others. It boils down to the following: There should be no privileges for groups of individuals on television; all people are equal, including in what it concerns buying air time. Meanwhile, the group which stands behind the Public Russian Television intends to receive air time free, as is suggested by the company's constitution, whereas the huge bill of operating Channel One will as before be met by the taxpayers.

Moreover, television is a powerful psychological and political tool, which the PRT group receive free on the eve of elections. Herein lies a large-scale and dirty political gamble, says the article, which the PRT defenders from among the artistic souls prefer not to notice. The PRT are seeking to pit the President against the Duma, inducing him to do what he did in October 1993.

On the Moscow station 2X2 TV, Kalashnikov was quoted as saying, on April 10, that Russian Public Television should literally be called "shady deal number one" in the sphere of privatization. "Tens of millions of dollars have been given just like that to far from the poorest people in this country." The news account continued as follows:

Presenter: According to Kalashnikov, the worst expectations—that money would begin to call the tune—have come true.

Kalashnikov: The fact that Russian Public Television is already pointing a gun at the State Duma, as was the case in 1993, demonstrates visibly that Russian Public Television is a most powerful instrument of authority today.

Presenter: The deputies intend to demand the creation of a state commission for the privatization of Ostankino. Sergey Kalashnikov will take Russian Public Television to court for insulting his dignity as a man and as a deputy. It said he was a well-known Duma troublemaker.

J. *Response of ORT*

Just before Russian Public Television's first broadcast on April 1, I.V. Shabdurasulov, head of the Russian government's department of culture and a member of the ORT board of directors, gave his views regarding political control of the new station and its finances during an interview with Aleksandr Shkirando on Ostankino Channel 1 TV. Here are excerpts:

Shkirando: Igor, as is known, on 1st April, all of our television viewers will encounter the new Russian Public TV. At the same time, there are evidently still many unresolved questions, many problems concerning perhaps politics, first of all, the social sphere, and problems connected with financing.

Shabdurasulov: Yes, that seems to be the case. You know I can't refrain from commenting upon the press conference held in the State Duma today [31st March] by Messrs [Sergey] Kalashnikov and [Sergey] Burkov, not unknown deputies, and, unfortunately, I am forced to state once again that either they deliberately or unintentionally fail to understand in principle what is happening. Reproaches are levelled about political power being usurped in the mass media, in television by either a financial grouping or a financial and political grouping. If we call the government a financial and political grouping, in particular, a political grouping then we can't go any further than the President of the Russian Federation as the highest state official.

Shkirando: It's said that all this work will lead to the destabilization of society, to tension.

Shabdurasulov: If the relations which we have the pleasure of observing today, let's say, in the State Duma are transferred to the television, then that probably will mean destabilization.

Shkirando: It's said in the State Duma that the interests of other political parties are not represented in the new television. The whole spectrum of issues is allegedly resolved only in a narrow group of one concrete political and ideological thrust. . . .

Shabdurasulov: In which one?

Shkirando: Let's say, Russia's Choice.

Shabdurasulov: You know, it's strange to hear that, because the composition of the council of trustees of the Russian Public TV company is being clarified at this moment and the council should be composed of—and invitations have already been sent out and work is being carried out—people of absolutely different political dispositions, people belonging to the most diverse strata of our society and social trends in our society. I can tell you, for instance, that talks are being held now on representatives of the Communist Party and representatives of democratically-orientated trends and movements, not just Russia's Choice, belonging to the board of trustees. The task, generally speaking, as we understand it, lies in this sense, on the contrary, in depoliticization . . . . Programming policy will be changed only gradually.

Shkirando: There are a great many questions connected with financing—this is perhaps a topic which is being discussed actively by the public.

Shabdurasulov: You know, there aren't any secrets. And perhaps to some extent the fault of the stockholders and the fault of the management of the new company lies in their failure to inform society in advance, to inform interested political circles in advance about the principles for financing that project. I can even give some figures: according to our calculations, over the coming nine months in 1995, the nonstate part of ORT stockholders will have to spend around R400bn—so the pressure on the state budget is being alleviated by this amount.

Further, you know that the ORT board of directors adopted a decision to temporarily suspend commercial advertising on the first channel. The cost of that is at least R80bn for every quarter. You can imagine the cost of that as a whole.

Further, a great many questions and, in my opinion, simple misunderstandings, are arising in connection with the debts incurred in the sphere of state radio and television broadcasting. Today Ostankino, I mean television and radio, owes, mainly to the Ministry of Communications, around R350bn, and the chairman of the government has instructed the Ministry of Finance, Anatoliy Chubays, the first deputy prime minister, the federal television service and the Ministry of Communications, to work out a possible financial plan for paying off these debts. But that does not at all mean, as some commentators say, that these debts should be paid by Ostankino for some reason or that the new company, ORT, should take them upon itself. These are state debts and where ORT is involved it will work with them and the state will also work with them on it and is obliged to do so and that is one of the primary tasks on the agenda now . . . .

K. *The New ORT Team Puts On A Brave Face*

On 2 April, the general director of the new Russian Public Television, Sergey Blagovolin, and the deputy chairman of Ostankino State Television and Radio Company, Grigoriy Shevelev, took part in the television's "One to One" program chaired by Aleksandr Lyubimov.

Q: Sergey Blagovolin, here is the first question for you. Could you please tell us where the idea to create ORT to replace Ostankino on Channel One came from? Who was the first to come up with it and how did the idea emerge?

Blagovolin: You know, it is said that it was in the air and that it was caused by the circumstances that had emerged. It would be difficult to pinpoint the day and the hour but it has been claimed that this happened some time in September 1994 . . . .

Lyubimov: Incidentally, how did you manage to convince the President and the bankers?

Blagovolin: I think we managed to convince them very easily . . . . Nobody thinks badly of Ostankino because there is a new first channel which really will be able not simply to maintain itself but also to develop, to keep up with the times and to keep up with the demands of the life of the country, demands which are changing, require dynamism, require immediate reaction. And as experience shows—and not just in television—there are many old and traditional structures which should be preserved, but nevertheless simply lose out as far as immediacy of reaction and flexibility are concerned; such is their nature. They were created for completely different tasks, for a completely different time. Therefore, it seems to me that this is why it happened the way it did.

Lyubimov: Perhaps it's objectivity, dialectics?

Shevelev: Perhaps. Perhaps at the same time—at the moment I am experiencing rather complex and mixed feelings. On the one hand, I feel bitter, and on the other there is a certain feeling of hope. There is bitterness because it pains me that the state did not have enough political will on the one hand, and on the other hand, the financial resources were lacking, and on yet another hand, it seems to me that the state does not yet have any notion of how the electronic mass media should function in the country . . . .

But on the other hand, there is a feeling of some hope because I want very much to believe that the financial structures which have come to the support of Ostankino, the political management of ORT, will do everything to ensure that the declarations which they are making in the press now will be backed up by real actions, that Ostankino really will remain, rather the first channel, will remain a national and supranational channel, a channel which people not only in Russia, but also beyond will watch with pleasure and that the political part of that channel won't be subordinate to the influence of one political grouping or another . . . .

Lyubimov: What usually happened on big channels was that everything was possible for those closest to the president, who had the greatest opportunity to dial up automatic telephone station Number 1 [reference unclear] and call you now.

Blagovolin: We have already agreed with the prime minister that no such telephone calls will be made and I, of course, am not so naive as to think that they really won't be made.

Lyubimov: If there aren't any elections, there won't be any pressure, will there?

Blagovolin: No! It would be strange—no! [laughs] I think—

and I'm proceeding from that premise—that the elections will be held and phone calls will be made! . . . .

Lyubimov: Grigoriy Aleksandrovich, what about Ostankino's commitments throughout the CIS? As is known, the first channel broadcasts not only to Russia and, most importantly, it broadcasts to the countries of the former USSR. How will all that happen in the future? Will these countries be able to switch off the first channel because it is a semi-state channel, although the state owns the controlling package of shares?

Shevelev: I think this is one of the most acute questions today, both for Russia and the management of ORT. I already have information, in particular, from Ukraine, and perhaps from several other regions, that various political forces in one state or another are somehow influencing the possibility of the first channel spreading to these states. I think that the leadership of ORT is also ready to support Ostankino in this respect and perhaps everything must be done in the state structure to ensure that the Ostankino channel spreads to a large territory and to the territory not only of CIS countries, but also of the Baltic, and perhaps beyond the former borders of the Soviet Union, where it was always received traditionally. I know that Bulgaria and some other countries which receive Ostankino are taking a great interest in the first channel. But it would be a tragic mistake here, and perhaps tragic short-sightedness, if that problem were ignored by the management of ORT and perhaps the government—perhaps interstate agreements are needed.

Lyubimov: Have you attended any consultations or seen the initial reaction of presidents of other countries?

Blagovolin: Talks are already under way. I completely agree with Grigoriy Aleksandrovich—broadcasting to CIS countries and even to countries of the far abroad which receive the first channel—must not be stopped for one reason or another. This is a very important task. We recognize—I repeat—that this question must be resolved and we hope to resolve it with the management of the Ostankino television company and with the participation of the state through our government structures. Let me say it again so that it's clear—talks are already under way and we are hoping for a favorable outcome. As concerns the internal political arrangement in one or another CIS country, we are not able to influence this, but we are nonetheless acting on the basis that the first channel is very popular in these places and this should help us to a certain extent with this aspect of the problem too.

Shevelev: I would just like to add, it's undeniable that the first

channel is very popular; we agree with the ORT management on this, but I would like to somehow pinpoint and look at in more depth the issue of Ostankino's popularity. Having become an independent—rather self-sufficient—production structure, Ostankino will seek the most diverse ways and means for taking its products, apart from via the first channel, to the viewers of regions of Russia and the states of the CIS, Baltic and so forth . . . .

Blagovolin: In a sentence, I hope that very soon—please let me remain vague for the moment, let me have my little professional secrets—you will see that on the first channel there will be no censorship, no ban on any journalist or on the views he may hold. The material he is to present alone will determine everything . . . .

Just before the April 1 launch, Blagovolin said regular news programs would be broadcast every three hours, produced by Russian Public Television itself, using the structure of the former Ostankino News Service, now included in the ORT contractual staff. "We do not want to cut this umbilical cord to Ostankino," Blagovolin said. He also announced that the new manager of the division would be Arkady Evstafiyev, who was spokesman for Russian first vice-premier Anatoly Chubais.

L. *Yeltsin and Chernomyrdin Define Role of ORT*

On April 15, as part of a wide-ranging press conference, President Yeltsin indicated what mission he hoped the new Public Russian Television would accomplish. "It is my opinion that Russia needs this television. Its objectives will be consensus in the country and consolidation of different forces for the sake of creation, for the sake of revival of great Russia." He also commented on the fight of the Duma to delay or prevent ORT from coming into being. "The lower house of Parliament has passed the draft law (stopping ORT) in great haste. Everyone saw that. Now the Federation Council should have a closer look at the draft and come up with its own proposals."

Before April 1, Premier Chernomyrdin met with the future directors of Russian Public Television. He announced that the RPT was to take over many of Ostankino's long-term obligations, with the volume of the commitments remaining to be agreed by the parties.

He also confirmed that non-state shareholders in the RPT will assume the funding of forty-nine percent of Ostankino's total current spending on broadcasting. The non-state shareholders also

committed themselves to make good revenues dented by a period of advertising suspension on Ostankino's first channel. Individual employment contracts of the former Ostankino television news agency, ITA, would be largely honored. In addition, Ostankino was to come up with a project of reorganization of the ITA.

Like Yeltsin, Chernomyrdin said the RPT was expected to become a stabilizing factor in the Russian society and called on television professionals to act up to these expectations. A number of independent private TV companies expressed their support to the ORT. They included the NTV channel and small "REN-TV" and "New Studio" firms. The new ORT operation was also supported by the cultural community, which charged that the Duma had passed the law "without taking into consideration the interests of the multi-million Russian audience."