

Radio and the consolidation of Portuguese identity: a critical assessment of compliance monitoring by the ERC

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Abstract

The promotion of Portuguese language and culture through radio broadcasters is one of the statutory requirements established by law. Considering that the state media regulatory body (*Entidade Reguladora para a Comunicação Social* - ERC) is responsible for regulating and monitoring media activity in Portugal, it shall verify compliance with these rules which are postulated by a system of quotas for the Portuguese music broadcasting. We consider this system an essential starting point in order to assess the quest for the Portuguese identity and consolidation through radio. This assessment is based on a certain understanding of language: a legalistic approach derived from the wording of the law that foresees language as a crucial element for the definition of a so-called Portuguese identity and as a constitutive premise of a cultural pattern.

Bearing in mind the legal framework for the radio and for the regulatory body, we scrutinize broadcasters' performance according to the established system of quotas through the analysis of the regulatory body's findings stated in the ERC's 2009 Report of Regulation.

This article deconstructs the significance of the system of quotas for the Portuguese music broadcasting considering a regulatory approach on behalf of legal imperatives in terms of identity, language and culture promotion, trying to answer some questions: What are radio broadcasters expected to do? What legal imperatives do they have to follow? Do they actually comply with them? What kind of intervention does the Portuguese regulatory body develop in this matter?

Keywords: state media regulation; radio; quotas; Portuguese music

1. Introduction

Though identity can be fostered through several different mechanisms, media play an important role since their activity is performed in the public sphere and they have a public impact in society. Media are considered as one of the constitutive pillars of democracy (Nieminen & Trappel, 2011: 137) and their immanent public character spreads its effects and widens the potential for public opinion formation and transformation. Traditionally placed in the public sphere, public opinion is shaped by media content as well as it models that same content. In fact, there is a "social semiosis" when considering that these two elements are permanently created and recreated (Martins, 2011: 108). Radio broadcasters are part of this process, not only when thinking about public service broadcasting but also if we consider private operators. Both play an important role in pursuing the public interest and assuring citizen's fundamental rights and freedoms.

In Portugal, the media market is not very complex and there are radio operators with program services' broadcasting locally, regionally and nationally. In the reception perspective, almost 70% of the Portuguese inhabitants aged more than 15 years old possess an isolated radio device, mainly at the central coast of the country (Obercom, 2010: 4). This data is collected from the latest report developed by the Portuguese research organization providing information in the area of Media and Communication called *OberCom – Observatório da Comunicação* which aimed at giving a portrait of the Portuguese radio landscape in 2010 based on a survey (1.258 enquiries) among resident population in the country aged more than 15 years old. There are some considerations raised in this report that might worth our attention in order to characterize the radio sector in Portugal, as bellow:

- There is an "ongoing trend towards the integration of radio consumption in other hardware systems but the results of the study show the prevalence of traditional radio systems" (Obercom, 2010: 5);
- A "general preference" for national radio broadcasters is observed (*idem*: 15);
- The data collected reveal a "generalized satisfaction with current radio content in Portugal (79,5% of the interviewee assure they are satisfied with the existing order)" and also point out the "importance of the musical component of radio" since "67,3% of the interviewee positively respond to the question 'I prefer radio broadcasters emitting more music than news', which indicates the prevalence of radio as a media diffuser of entertainment more than a source of information" (*idem*: 17);
- The "preference for music in radio is substantially more pronounced in lower age groups, especially between 15 and 24 years old and 25 and 34" while older people tend to "favor the issuance of music and news more evenly" (*idem*: 19);
- A "significant proportion of the respondents have maintained, in the past 5 years, the level of radio consumption (48,1%). Still, the percentage of those saying that listens to the radio less frequently is high (32,6%)" (*idem*: 27).

Several changes have been identified in the radio market and are often mentioned as mainly introduced by technological development and the Internet, giving birth or strengthening the so-called hybrid listeners due to their dispersal in traditional mechanisms and news forms of radio consumption. As Helen Shaw puts it: "The promise of digital technology to both producers and users was to make things better, to enhance the experience of radio" (2010: 215). Fostering the quality of the listening experience is, after all, the main goal and an old and recurrent problem since radio is determined by its "listenability" (Scannell, 2010: 11). Paula Cordeiro (2004: 4), on the other hand, emphasizes a shifting in terms of business structure by stating that "the scenery is now comprised of three different elements", namely 1) a "set of broadcasters of small dimensions" characterized by little concerns of quality and aesthetics; 2) the private broadcasters concerned with share levels; 3) and a public broadcaster with more resources but not necessarily more

diversity and quality. Conclusions from a report developed by the National Institute for Statistics in 2009 present 333 enterprises pursuing activities of radio and television in Portugal as official data (INE, 2011: 63).

The future of radio is somehow facing a period characterized by a certain degree of obscurity and uncertainty, as Marko Ala-Fossi points out. This author signals that "divergence" is taking place rather than a passage from analogue to digital audio broadcasting as well as convergence, which is leading to a new ground that asserts radio as something "currently either facing the danger of fragmentation or surviving by infiltrating new platforms and becoming more polymorphic" (Ala-Fossi, 2010: 45).

Scrutinizing the compliance monitoring developed by the ERC in relation to Portuguese music transmission by radio broadcasters and assessing the role of this state media regulatory body is the aim of this paper. Our grounded basis is then the point of view defined and characterized by the state through what is written in some legal diplomas which are applied to this matter. This justifies the linkage we develop between the system of quotas for the Portuguese music broadcasting and the process of Portuguese identity consolidation. Along this work, we place ourselves in line with the state understanding that perceives language (and Portuguese music in particular) as a constitutive element for identity consolidation and for the sense of community belonging. Language is, according to this point of view, something that helps to foster identity and culture sedimentation, both part of something commonly referred as community. Our position is clearly state-centered since our aim is to understand the system of quotas for the Portuguese music broadcasting based on a specific legal framework. We consider a regulatory approach on behalf of legal imperatives in terms of identity, language and culture promotion, trying to answer some questions: What are radio broadcasters expected to do? What legal imperatives do they have to follow? Do they actually comply with them? What kind of intervention does the Portuguese regulatory body develop in this matter?

Thus, based on the conclusions developed by ERC in the latest Regulatory Report of 2009, we assess how radio broadcasters are behaving in terms of Portuguese music broadcasting after clarifying the role of the regulatory body and the set of specific determinations – imposed by law and applied by this same organism – of the system of quotas for that type of music. Although we do not particularly address the performance of public service broadcasters, we include two stations in order to try to establish a certain degree of comparison that might be further deconstructed in future researches.

2. Fostering Portuguese identity consolidation through radio

The themes identity and culture are substantially difficult to approach and the relationship we can establish between them and radio broadcasting complexifies the analysis. Radio is a particular medium, often called a "blind medium" (Crisell, 1994: 3), due to its straight connection to sound and absence of image. Bearing that in mind, music is a crucial element when studying this medium:

"Music on the radio, as on television, seems to perform two main functions. It is an object of aesthetic pleasure in its own right, in record shows, concerts, recitals, and so on; and either by itself or in combination with words and/or sounds it performs an ancillary function in signifying something outside itself. As an object of pleasure in its own right, music is quite simply the mainstay of radio's output" (Crisell, 1994: 48).

The process of identity formation (or identities which, according to several authors, is the most accurate expression) is resonate with the sense of 'belonging to'. As Bauman (2004: 12) posits, these two elements are intimately related and interconnected as well as "eminently negotiable and revocable".

In accordance with the understanding of several authors, we should refer to identity in the plural form of the word. As Stuart Hall (1996: 4) puts it, the traditional significance of the term involves an "all-inclusive sameness, seamless, without internal differentiation". Therefore, the author argues that identities are formed through difference and there is an intimate relationship between identities and representation as well as with discourse. Tradition and cultural inheritance are also factors that, according to his theory, must be taken into account when talking about identities because they are "about questions of using the resources of history, language and culture in the process of becoming rather than being: not 'who we are' or 'where we came from', so much as what we might become, how we have been represented and how that bears on how we might represent ourselves" (*ibidem*). Stuart Hall's (2006: 234) distinction of two forms of thinking about cultural identity is rather useful. On the one hand, the author acknowledges cultural identity as a collective, resulting from of a shared culture and ancestry. The second view, addressed as something different but associated with the first one, emphasizes the idea of transformation beyond the sameness punctuated by historical experiences advocating that cultural identity "is a matter of 'becoming' as well as of 'being'" (Hall, 2006: 236).

Our understanding goes further to meet this second view of cultural identity postulated by Stuart Hall (2006) in the sense that there are contingencies of the self which may necessarily determine the way cultural identities are built. Moreover, actions of social, political, economic order or other may also contribute to the same process of transformation and (re)discovery. Following this point of view, referring to identity consolidation through the transmission of Portuguese music in radio broadcasters requires the inclusion of legal and regulatory mechanisms in the analysis. This is the major guideline that steers our

path along this article. However, as our approach throughout this text is mainly focused on legal instruments and on the state media regulatory body activity, it is necessarily a state vision of identity that is, according to this understanding, conveyed by language. Considering Lusophone studies, there are authors defending that sharing the same language in a supranational space is the constitutive element of being part of the Lusophone world (Bastos & Brito, 2006: 114).

Michel Wieviorka's perspective (2002: 169) places "collective identity" as the "first vertex of the triangle of difference" and presents it as something that "does not draw a series of meanings or one sense, but a system of values that defines the unity of a group". In Portugal, the Constitution of the Republic states as general obligations for broadcasters the duty of "ensuring the transmission of programs that promote the Portuguese culture, language and music" (article 32, no. 2, paragraph f).

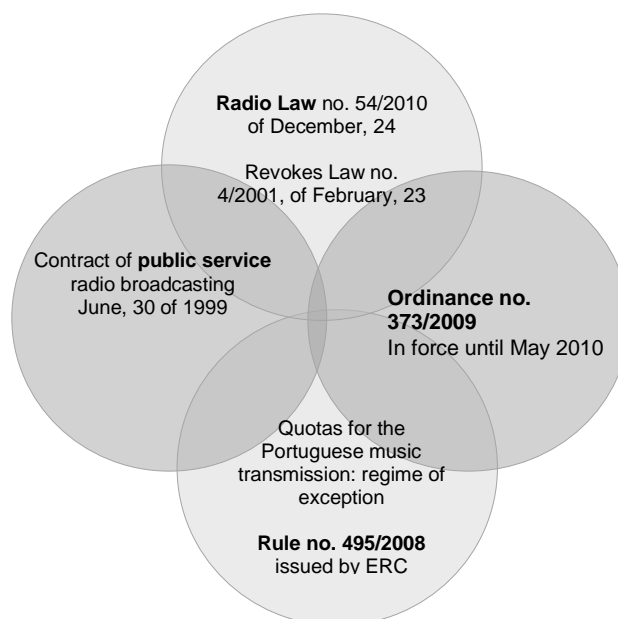
Sharing a common language and culture frequently resonates with the idea of community or with the sense of belonging to a certain nation while this nation might be perceived as an "imagined political community – and imagined as both inherently limited and sovereign" (Anderson, 1991: 6). However, the understanding of language as requirement or characteristic of community is essentially an understanding based on a state approach, being also mentioned by Benedict Anderson (1991: 134) as an "inclusive" parameter and precisely not the opposite. A view that postulates language as a pre-requisite for identity, also modulated by culture, is revealed by the Portuguese state through the wording of the law. According to this point of view, language is something immanent to the notion of identity consolidation and community building or reconfiguration but it is a state-centered approach. The relationship between "political community" and "national identity" is emphasized by Anthony Smith (1991: 8-10), who thinks the first is involved in the second and to whom a political community includes a delimited territory, a shared set of cultural and/or external rules and codes for behavior as well as a common series of laws and institutions, and a "social space".

Thus, our analysis takes these considerations into account and proceeds with a discussion of radio broadcasters' behavior in the context of a legalistic framework - where the system of quotas for the Portuguese music broadcasting is included - as well as of a state-oriented understanding of identity. The political sphere and subsequent policies regarding Portuguese identity consolidation are crucial to understand the role of the state media regulator in the issue we are dealing with in this work. In fact, the political point of view and the related role played by the legislator determine the way we understand some major cultural areas. For example, a study developed by Helena Sousa (2006) tries to understand the launching of the public service thematic broadcasters "RTP Internacional" and "RTP África" in connection with political options and with a political stance towards this cultural area in the framework of the Lusophone Community.

3. Understanding the legal framework applied to radio: The system of quotas for the Portuguese music broadcasting

Several legal diplomas are generally applied to media in Portugal, with special focus on the Constitution, the law with the highest degree of importance and enforcement. However, similar to many countries, the legal framework for the radio sector comprehends the Radio Law and, regarding the subject we are dealing with in this paper – the system of quotas for the Portuguese music broadcasting in radio –, the Rule issued by the state media regulatory body (no. 495/2008), published in the official journal (called *Diário da República*). Moreover, we should also consider the requirements associated to public service broadcasting. In this sense, the legal framework encompasses the public service contract for radio broadcasting celebrated between the Portuguese state and the concessionaire enterprise, dated June, 30 of 1999. As shown in *Image 1*, different legal documents emanated from various organisms apply to this matter, not only in relation to private broadcasters but also to public service radio operators.

Image 1: Legal documents applicable to radio broadcasting in Portugal



Having this scheme as a referential background, we should report some changes subsequently introduced since the establishment of a system of quotas for the Portuguese music broadcasting has suffered

transformations. Retreating to 2001, the transmission of Portuguese music found legal shelter: Law no. 7/2006 (dated March, 3) introduced changes to the Radio Law and radio broadcasters began to be subjected to a system of quotas regarding the mentioned type of music, whose characteristics will be further described. An ordinance (*Portaria n. º 373/2009, de 8 de Abril*), which came into force until May, 3 of 2010, established the specific determinations of this system and settled the minimum quota of 25% for Portuguese music broadcasting. In fact, the government is responsible for the annual determination of the specific quota, taking into consideration available indicators regarding Portuguese music consumption, as states article 46 of the Radio Law. On the other hand, the role of the state media regulatory body in this matter is to determine a regime of exception to this rule. At a first stage, this was established through Rule no. 495/2008 but it became part of the Radio Law two years later.

So, the next legislative transformations gathered these scattered stipulations into the new Radio Law no. 54/2010¹ which determines the norms applicable to Portuguese music on section 3 of the same diploma. Over the next few paragraphs, we focus on these legal provisions in order to present the general contours of the system of quotas for the Portuguese music broadcasting in radio.

General Rule

Article 41

The programming of music in radio broadcasters is duly completed in minimum share ranging from 25% to 40% with Portuguese music

These musical compositions are defined as those that “convey the Portuguese language or reflect the Portuguese cultural heritage, drawing on their traditions, environments and sounds, whatever their authors or performers’ nationality” or when the musical genre impedes the Portuguese language conveyance, those that “represent a contribution to the Portuguese culture”.

Specific Requirements

Articles 43, 44 and 47

The legal requirements set out by these articles can be decomposed and subsumed in the following five components:

- 1) The compliance with 25 per cent of Portuguese music broadcasting during 24 hours of transmission;
- 2) The compliance with 25 per cent of Portuguese music broadcasting during the daily transmission period of 7 to 20;

¹ The analysis of the data collected and published in the 2009 Regulatory Report of the ERC is based on legal demands reported by Law 7/2006, dated March, 3. However, since there are no major changes in the rules on the theme we are dealing with, our option was to present the legal framework in accordance to the newest law for the radio sector (Law no. 54/2010, dated December, 24).

- 3) The compliance with a 25 per cent of Portuguese music broadcasting with a minimum of 60 per cent of music compounded or performed by citizens of the European Union's member states during the 24-hour period of transmission;
- 4) The compliance with a 25 per cent of Portuguese music broadcasting with a minimum of 60 per cent of music compounded or performed by citizens of the European Union's member states during the daily transmission period of 7 to 20;
- 5) The compliance with a 25 per cent of Portuguese music broadcasting with a minimum of 35 per cent of recent music (first published record or public communication made in the last 12 months).

Regime of Exception

Article 45

The system of quotas previously detailed does not apply to thematic radio broadcasters whose "specific programming model is based on the broadcasting of musical genres insufficiently produced in Portugal".

The ERC has competence to determine and define the criteria, which shall make publicly available, for the qualification of broadcasters allowed to play less Portuguese music.

Finally, there are some additional requisites that public service broadcasting must comply with. In Portugal, similar to some European countries, there is a public service concessionaire with whom the state celebrates a contract for public service broadcasting. Therefore, obligations in terms of programming or information and music transmission are significantly different from those to which private broadcasters are subjected to. Nevertheless, our understanding is that all broadcasters, private included, shall pursue the public interest and public service goals. In this paper, we will not pay particular attention to principles enshrined in article 49 of the Radio Law related to specific obligations for public service but only to the obligation framed in article 42: "the quotas for the Portuguese music broadcasting in the public service radio are set out in the public service contract, having the percentage of transmission in its first program service to be inferior to 60% of the total of music broadcast".

4. Regulating the radio: What is the role of the state media regulatory body?

Media regulation in Portugal is performed by the state media regulatory body called *Entidade Reguladora para a Comunicação Social* (ERC). Having been created in 2005 (by Law no. 53/2005 of November, 8, to which are annexed its Statutes), this organism saw its powers and functions greatly expanded when compared to its predecessor, the High Authority for the Media (*Alta Autoridade para a Comunicação Social - AACs*), which existed from 1989 to 2005. This regulatory body is responsible for regulating the media

sector, specifically the press, radio, television, and also news agencies. Nevertheless, an important peculiarity must be stressed due to its constitutional protection, being the only regulatory organism established in the Portuguese Constitution.

The Portuguese legislative tradition includes media regulation in the country since 1976 but it was the Portuguese revision of this legal document in 1989 that introduced public regulation of all media and not only regulation of the state organisms (Silva, 2007: 15). According to the fundamental law (article 39, no. 1), the ERC must pursue a set of objectives, including the right of information and press freedom, the independence from political and economic powers, the respect for personal rights, liberties and guarantees and for the general regulatory apparatus, the possibility of expression and confrontation of different various opinion as well as the exercise of the rights of antenna, of reply and of political reply. The legal framework has therefore an extreme importance for the ERC's daily performance due to its competence of law enforcement (Silva, 2007: 17).

A general look at the ERC's Statutes allows us to go over the main points of its scope of activity, as follows:

- Supervision of public and private broadcasters;
- Handling with complaints as well as managing the decision-making process;
- Using powers of a sanctioning nature, namely issue warning, fines' imposing, demands to broadcast announcements addressing, revoking and suspending licences, suspending a programme/broadcast, binding ordinances and non-binding directives issuing;
- Making use of consultative powers.

In an attempt to decompose these general guidelines into specific duties, *Table 1* condenses some obligations in terms of radio regulation developed by the ERC:

Table 1: ERC's competences and radio broadcasters' obligations

Radio broadcasters	State media regulation – ERC
Licences – request and renewal	Grants and renews licences
Registration	Manages the registration process of radio broadcasters
Classification of program services according to the main characteristic of programming or to the public segment to whom it addresses	Classifies the broadcaster: generalist or thematic
Regulation fees	Part of the ERC's funding: industry fee, state budget, and fines resulting from penalties

The set of rules and obligations presented in the table allows us to have a clearer picture and an overall understanding of the typology of obligations to which radio broadcasters are subjected to and, on the other side of the regulatory process, of the scope of activity of the Portuguese state media regulatory body.

Regarding the specific framework of the system of quotas for the Portuguese music, there are also requirements that must be accomplished by both parts. Having seen which general principles apply to radio broadcasters in terms of legal compliance, we dedicate the next section of this paper to the ERC's actions in terms of Portuguese music broadcasting.

4.1. How does the ERC assert compliance with Portuguese music quotas?

According to the ERC's latest report of regulation (Entidade Reguladora para a Comunicação Social, 2009: 160), the methodology used by the services of the regulatory body is based on a certain degree of pro-activity of radio broadcasters (national, regional and local). Notwithstanding, the state media regulatory body has implemented a system in October 2007 in which are subscribed – and activated – radio operators, allowing an automatic verification of compliance with rules, although this does not invalidate the submission of reports by other means. In this context, we are focusing on those broadcasters registered in the mentioned automatic system during the year 2009, having in mind that here are not included operators exempt from compliance with the established quotas for the Portuguese music (*ibidem*). The analysis is based on monthly musical reports delivered by radio operators and subsequent data processing using the automatic system developed by the regulator.

The data shown in *Table 2* is a result of the analysis of the aforementioned report developed by the state media regulatory body and subsequent both collection and reorganization of the most relevant information for our study. Generally, empirical evidence reveals that compulsory requirements imposed by law are accomplished by the majority of radio broadcasters, either local and regional or national.

Table 2: Radio broadcasters' compliance with the quota of 25% of Portuguese music during 24 hours of transmission in 2009

Type of broadcaster	Definition	Compliance with the quota of 25% during 24hrs. of transmission
Local	Covers a city and possible adjacent areas	More than 86 per cent of radio broadcasters complied with the minimum established
Regional	Covers a city and possible adjacent areas (<i>RCP – Rádio Clube Português</i>)	Values ascending 50 per cent of Portuguese music broadcasting in 2008 and 60 per cent in 2009
National	Covers the generality of the national territory (<i>RFM, Rádio Renascença e Rádio Comercial</i>)	Values ascending the compulsory 25 per cent
	Public Service Radio Broadcasting	Compliance with the quota of 60% during 24hrs. of transmission* Compliance with the quota of 25% during 24hrs. of transmission**
National	Antena 1*	Values slightly higher than the legal minimum established
National	Antena 3**	More than 40 per cent of Portuguese music transmission in every months of 2009

Source: Data collected from ERC's Annual Report of 2009, (pp. 161-166)

Bearing in mind information condensed in *Table 2*, it is possible to assert that compliance with law requirements is generally verified in the Portuguese radio broadcasters' performance. The data collected also indicates that most of the times broadcasters exceed the minimum required by law in the period of 24 hours of transmission. Moreover, these remarks are referred to local, regional and national broadcasters as well as to broadcasters pursuing public service, since two of the three radio stations established in the public service contract (*Antena 1* and *Antena 3*) are included in our analysis. In terms of composed or interpreted music by EU citizens, it should be added that there is a 95% average of compliance with the 60% quota amongst local radio broadcasters (Entidade Reguladora para a Comunicação Social, 2009: 171), which represents an extremely high rate of accomplishment with legal constraints.

The conclusions written in the Regulatory Report of 2009 developed by the ERC indicate that national broadcasters in Portugal go beyond the minimum percentages imposed by law in terms of Portuguese music transmission, not only in what refers to the "25 per cent quota in the total of music programming but also in the fulfillment of this quota with 60 per cent of composed or interpreted music" (*idem*: 19). Those broadcasters exempt from compliance with the system of quotas are not included in our scope of analysis but there are some issues that are worth mentioning namely the relationship of cooperation between the

ERC and the Portuguese Society of Authorship (*Sociedade Portuguesa de Autores*). As we have mentioned before, the regime of exception of compliance with the system of quotas for the Portuguese music transmission includes thematic broadcasters defined as *musicals* (or, to be accurate, specialist music stations) and whose programming is based on the transmission of musical genres insufficiently produced in Portugal. So, this is where the cooperation between the aforementioned entities solidifies its purpose, having resulted in the identification of the insufficiently produced music genres: the hip-hop/rap/urban, children, jazz/blues, dance and classic. According to what is stated in the same Report, there were 12 exemptions accepted until the end of 2009, mostly referring to the genre dance/urban/hip-hop (*idem*, 2009: 19).

Regarding public service radio broadcasting in Portugal, it is exercised through three main radio stations: *Antena 1*, *Antena 2* and *Antena 3*. Although not included in this work, it should be noted that there are also its regional and international transmissions (*RDP Madeira* and *RDP Açores* and *RDP Internacional* and *RDP África*, respectively). This set of program services and a few television channels are under the responsibility of the Portuguese Radio and Television enterprise (called *Radiotelevisão Portuguesa*), which suffered a restructuring by Law 8/2007 of February, 14 and is currently in charge for the public service broadcasting in the country. Consequently, there must be a particular focus on public interest matters and we could not completely exclude it in this paper.

One of the most interesting reflections we can derive from the analysis of the data collected in *Table 2* is the trend towards an absence of differentiation between the performance private radio broadcasters and public service broadcasters, that is to say that all of them reveal a tendency for compliance with rules. Although the terms of comparison are not exactly under the same conditions – the quota of 25% during 24hrs. of transmission for the private broadcasters and the quota of 60% during the same period in the case of the public service broadcaster *Antena 1* – it should be highlighted that non-compliance is not verified in any case. In addition to that, as the ERC's intervention in this matter is strongly dependent on broadcasters will and pro-activity, we can also stress a good cooperation and articulation between both parts of the regulatory process. In 2009, 152 program services of radio broadcasters were active in ERC's automatic system for the Portuguese quotas verification, which represents a 3% rise compared to the previous year 2008 (*ibidem*). So, it is possible to infer that there seems to be a more conscientious and growing sense of public service towards society. Notwithstanding the range of forms of punishing or detriment from the regulatory body, our understanding is that this increase and the results of high compliance shown in *Table 2* may indicate good signs of cooperation and symbiosis in order to enrich the public sphere, to enhance the Portuguese identity as defined by the legislator as well as an adjacent consolidation of culture and contribution to public service broadcasting.

5. Final Remarks

The regulator's contributions for the Portuguese identity consolidation through radio

The system of quotas for the Portuguese music broadcasting is one particular issue in the wide area of media regulation and, in particular, in the scope of activity and sphere of competences of the state media regulatory body: the ERC (*Entidade Reguladora para a Comunicação Social*). In Portugal, media content regulation is under the responsibility of this independent administrative organism, which has several legal duties on issues related to Portuguese identity consolidation and/or reinforcement. Also the Radio Law (no. 54/2010) specifically determines, as outlined in its article 6, principles of national cohesion and language as well as culture promotion. The establishment of a system of quotas that is supposed to impose limits for a minimum percentage of Portuguese music broadcasting is one of the ways of pursuing the determinations of the aforementioned legal determination. This is thus a discussion that takes into account a legalistic approach of language as a fundamental element for the definition of identity and for the determination of the Portuguese culture. In fact, Portuguese language, culture and tradition can not only be enhanced but, most importantly, consolidated through mass media, playing radio broadcasters an important role in this matter due to the importance of sound, to high numbers of radio listeners in our country and to the presence of this medium elsewhere the user might want it (its small size and extreme portability).

One of the most important considerations we can make is that the ERC is very dependent on radio broadcasters when assessing compliance with the quotas ranging from 25% to 40% of Portuguese music transmission established by law. On the one hand, because the automatic system developed by the regulator needs broadcasters to be active in the platform, where we can verify some advances and a higher number of active operators when comparing to 2008 (Entidade Reguladora para a Comunicação Social, 2009: 19). On the other hand, due to the needed efforts of sensitizing broadcasters to be active in the system, which shall include a monthly report with broadcasting information. These initiatives came across the year 2009 and were developed by the ERC's services (*idem*, 2009: 162), taking part of what a former member of the ERC's Regulatory Council calls a "path of pedagogy" (Serrano, 2010: 94).

The data collected from the Regulatory Report of 2009 regarding the monitoring of the Portuguese music quotas transmission and the signs of a rise in the number of active broadcasters in the ERC's automatic system reveal a tendency for higher and better compliance with legal requirements and also with the regulator's guidelines. The role of such a regulatory body in the pursuance of a sense of promotion and consolidation of the Portuguese language, culture and identity through music is, in our point of view, in a promising path. On the other side of the process, radio broadcasters are also being accurate with compliance with quotas having, in many cases, exceeded the minimum established. Moreover, this situation is verified in both private and public radio broadcasters included in this paper and, generally, in the

conclusions stated in the aforementioned Report, representing that there seems to be a growing tendency towards conscious compliance and coordination with the state media regulatory body, probably trying to contribute for the public service and for the public interest more intensively.

This article aimed at presenting and contextualizing the system of quotas for the Portuguese music broadcasting from a legal and regulatory perspective, assessing the role of the state media regulatory body in compliance monitoring of radio broadcasters' performance. So, considering the Portuguese legal framework in terms of identity, language and culture promotion, we focused on the ERC's intervention as well as on the broadcasters' activity based on conclusions developed by the regulator in its 2009 Report of Regulation. Future investigations may be based on empirical research independently driven as well as on a comparative study between the automatically-derived data, as ascertained by the regulatory body, and the self-reporting by radio stations. Moreover, another interesting work could specifically focus on the performance of public service broadcasters in relation to compliance with Portuguese music quotas legally defined.

Bibliographic References

Ala-Fossi, M. (2010). 'The Technological Landscape of Radio', in O'Neill, B., Ala-Fossi, M., Jauert, P., Lax, S., Nyre, L. & Shaw, H. (eds.), *Digital Radio in Europe – Technologies, Industries and Cultures*. Bristol: Intellect, 43-65.

Anderson, B. (1991). *Imagined Communities*. London: Verso.

Bastos, N. & Brito, R. (2006). 'Lusofonia: políticas linguísticas e questões identitárias', in Martins, M. L., Sousa, H. & Cabecinhas, R. (eds.), *Comunicação e Lusofonia – Para uma abordagem crítica da cultura e dos media*. Porto: Campo das Letras/Centro de Estudos de Comunicação e Sociedade, 111-122.

OberCom – Observatório da Comunicação (2010). *A Sociedade em Rede em Portugal 2010*. OberCom [<http://www.obercom.pt/content/pSociedadeRede/>, accessed 17.08.2011].

Cordeiro, P. (2004). 'A Rádio em Portugal: um pouco de história e perspectivas de evolução' [<http://www.bocc.ubi.pt/pag/texto.php?html2=cordeiro-paula-radio-portugal.html>, accessed 06.07.2011].

Instituto Nacional de Estatística - INE (2011). *Empresas em Portugal 2009*. Instituto Nacional de Estatística [http://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_publicacoes&PUBLICACOESpub_boui=116399684&PUBLICACOESstema=55579&PUBLICACOESmodo=2, accessed 17.08.2011].

Crisell, A. (1994). *Understanding Radio*. London: Routledge.

Bauman, Z. (2004). *Identity*. Cambridge: Polity Press.

Hall, S. (2006). 'Cultural Identity and Diaspora', in Braziel, Jana Evans & Mannur, Anita (eds.), *Theorizing Diaspora*. Malden, MA: Blackwell, 233-246.

Hall, S. (1996). 'Who Needs 'Identity'?', in Hall, Stuart & du Gay, Paul (eds.), *Questions of Cultural Identity*. London: Sage Publications, 1-17.

Martins, M. L. (2011). *Crise no Castelo da Cultura – Das Estrelas para os Ecrãs*. Coimbra: Grácio Editor.

Nieminen, H. & Trappel, J. (2011) 'Media Serving Democracy', in Trappel, J., Meier, W. A., d'Haenens, L. & Steemers, J. & Thomass, B. (eds.), *Media in Europe Today*. Bristol: Intellect, 135-151.

Scannell, P. (2010). 'The Ontology of Radio', in O'Neill, B., Ala-Fossi, M., Jauert, P., Lax, S., Nyre, L. & Shaw, H. (eds.), *Digital Radio in Europe – Technologies, Industries and Cultures*. Bristol: Intellect, 9-16.

Serrano, E. (2010). Uma Missão (Quase) Impossível. *Trajectos – Revista de Comunicação, Cultura e Educação*, 17, 93-101.

Shaw, H. (2010). 'The Online Transformation: How the Internet is Challenging and Changing Radio', in O'Neill, B., Ala-Fossi, M., Jauert, P., Lax, S., Nyre, L. & Shaw, H. (eds.), *Digital Radio in Europe – Technologies, Industries and Cultures*. Bristol: Intellect, 213-236.

Silva, A. S. (2007). A hetero-regulação dos meios de comunicação social. *Comunicação e Sociedade*, 11, 15-27.

Smith, A. D. (1991). *National Identity*. London: Penguin Books.

Sousa, H. (2006). 'A mobilização do conceito de Lusofonia: O caso dos canais internacionais da RTP', in Martins, M. L., Sousa, H. & Cabecinhas, R. (eds.), *Comunicação e Lusofonia – Para uma abordagem crítica da cultura e dos media*. Porto: Campo das Letras/Centro de Estudos de Comunicação e Sociedade, 165-182.

Wieviorka, M. (2002). *A Diferença*. Lisboa: Fenda Edições.

Entidade Reguladora para a Comunicação Social (2009). *Relatório de Regulação 2009 – Volume I*. Lisboa: Entidade Reguladora para a Comunicação Social.

Legal documents

Constitution of the Portuguese Republic (*Constituição da República Portuguesa*).

Law no. 8/2007, of February, 14, amended by Law 8/2011 - Law that proceeds to the restructuration of the radio and television public service concessionaire (*Lei n.º 8/2007 de 14 de Fevereiro, alterada pela Lei n.º 8/2011, 11.04 - Lei que procede à reestruturação da concessionária do serviço público de rádio e televisão*).

Radio Law no. 7/2006, of March, 3 - Law that introduces the second amendment to the former Radio Law (no. 4/2001, dated February, 23) (*Lei n.º 7/2006 de 3 de Março - Segunda alteração à Lei n.º 4/2001, de 23 de Fevereiro*).

Ordinance no. 373/2009 of April, 8 – Establishes the minimum quota ranging from 25% to 40% for the Portuguese music transmission (*Portaria n.º 373/2009, de 8 de Abril – Estabelece a quota mínima variável entre 25% e 40% com música portuguesa*).

Public service radio broadcasting contract celebrated between the Portuguese state and the concessionaire enterprise (*Contrato de concessão do serviço público de radiodifusão sonora*) [<http://www.gmcs.pt/index.php?op=fs&cid=106&lang=pt>, accessed 15.08.2011].

Law no. 53/2005 of November, 8, to which are annexed its Statutes - Law creating the Portuguese State Media Regulatory Body, ERC (*Lei n.º 53/2005, de 8 de Fevereiro - Cria a Entidade Reguladora para a Comunicação Social e respectivos Estatutos, anexos à lei*).