

The RCTV Cliffhanger:

Flagging social responsibility in the media.

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December 2008

Abstract:

The non-renewal of the Radio Caracas Televisión (RCTV) broadcasting license on May 27th 2007 ignited unresolved contention over the state of freedom of press in Venezuela. The issue attracted international attention and unleashed many contradictory opinions in Venezuela and throughout the world. This article examines a range of legal justifications put forth to defend and denounce the non-renewal of the license (1), reflecting the ambiguity in assessing the channel's violations of "social responsibility" that ultimately led to its toppling in the eyes of Chávez's government (2). The abundant discords on the issue provide a convenient case study in elucidating the overly qualitative concept of "social responsibility". The arguments advanced by different sides point to the question of how to define a media company's social responsibility toward its viewers, and whether it can be enforced by legal sanctions. This RCTV incident offers clues for delineating the role that a television channel might be expected to undertake as a player in a democratic society, while revealing the specific challenges of placing the concept of ethical responsibility in a legal framework.

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Introduction

The non-renewal of the Radio Caracas Televisión (RCTV) broadcasting license on May 27th 2007 ignited unresolved contention over the state of freedom of press in Venezuela. The spectrum of the debate is wide and blurry, and evaluating the media landscape under the Chávez regime strongly depends on whose supporting arguments one takes into account. The incident attracted international attention and unleashed many contradictory opinions in Venezuela and throughout the world. The most widely diffused criticism was that the non-renewal of the RCTV contract was a flagrant violation of freedom of expression; the Venezuelan government's justification for the action, on the other hand, was that RCTV had violated its ethical responsibility as a media company toward its audience and society at large on a range of levels - most saliently by failing to portray an objective account of political events during the 2002 coup.

This article examines a range of legal justifications put forth to defend and denounce the non-renewal of the license (1), reflecting the ambiguity in assessing the channel's violations of "social responsibility" that ultimately led to its toppling in the eyes of Chávez's government (2). The abundant discords on the issue provide a convenient case study in elucidating the overly qualitative concept of "social responsibility" – tricky to legislate and monitor, and yet essential in securing freedom of press. The arguments advanced by different sides point to the question of how to define a media company's social responsibility toward its viewers, and whether it can be enforced by legal sanctions. This RCTV incident offers clues for delineating the role that a television channel might be expected to undertake as a player in a democratic society, while revealing the specific challenges of placing the concept of ethical responsibility in a legal framework.

I. Contested legalities of the RCTV license non-renewal

1. Silencing opposition

The Chávez government's decision to not renew RCTV's license was taken for a range of reasons – namely the company's support of the 2002 coup in addition to its 652 transgressions of Venezuelan media law. The decision was interpreted by the international community at large as a flagrant violation of freedom of expression, and denounced as contrary to international legal principles.

The Latin American Association of Information and Communication Rights (AIDIC), claimed that the non-renewal constituted a breach of freedom of speech and thought, as is explicitly forbidden in article 13 (section 3) of the American Convention on Human Rights: "The right of expression may not be restricted by indirect methods or means, such as the *abuse of government or private controls* over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions".

Venezuela had ratified this convention on June 23rd 1977, as well as its second additional protocol on August 24th, 1992². In addition, the country's *Ley Resorte* (Ley de Responsabilidad Social en Radio y Televisión) includes an obligation guaranteeing "el respeto a la libertad de expresión e información, sin censura (...), los tratados internacionales ratificados por la República en materia de derechos humanos y la ley" (article 3, section 2)³.

In light of this law, the International Press Institute's reference to the UN Universal Declaration of Human Rights should be equally binding. The Institute regarded the non-renewal as a "flagrant attempt to silence the station's critical voice", due to its violation of article 19 of the UN Declaration stipulating that "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"⁴.

However, the question of whether the non-renewal of the RCTV license qualifies as a violation of freedom of expression demands the key specification that RCTV continued to be broadcasted in Venezuela via satellite and cable after May 27th 2007 under the name Radio Caracas Televisión Internacional (RCTV

² See http://www.freerctv.com/docs/Declaration_AIDIC_Mar07.pdf. The American Convention on Human Rights, also known as the Pact of San José, was signed at the Inter-American Specialized Conference on Human Rights in San José, Costa Rica, on November 22nd 1969 (http://www.hrcr.org/docs/American_Convention/oashr4.html).

³ "compliance with the freedoms of expression and information, without censorship (...), with international treaties ratified by the Republic pertaining to human rights, and with the law".

⁴ See http://www.freemedia.at/cms/ipi/statements_detail.html?ctxid=CH0055&docid=CMS1180432968135 and <http://www.un.org/Overview/rights.html>.

Internacional). Therefore, a more pertinent denunciation by international organizations was that which pointed to the fact that the non-renewal was motivated by a *political will* to silence RCTV's voice of opposition – in which case the grounds for the action are more objectionable than the action itself.

The Committee of Press Freedom Organizations issued a declaration on March 14th 2007 saying that "well-established international criteria require that governmental issuance and renewal of broadcast licenses should be *non-political, transparent, conducted pursuant to objective standards* prescribed by law, and should afford due process to the licensee, including the right of appeal to an independent judiciary. The global Coordinating Committee of Press Freedom Organizations requests the Government of the Bolivarian Republic of Venezuela to follow these internationally respected criteria"⁵. It would have been helpful if this statement specified a dated declaration or text from which these "international criteria" were drawn; still, they come across as compatible with democratic standards that should serve as a baseline reference in examining the RCTV case.

Bewildering many, an explicit law against "offending" the President had actually been implemented in the March 16th 2005 reform of the Venezuelan penal code – and thus could serve as legal backing for the non-renewal of the RCTV license. According to the United States-based international organization Freedom House, "the legal environment for the press deteriorated in 2005 owing to two new restrictive laws that have increased the severity of punishments for *desacato* (disrespect)"⁶, as part of the penal code reform. Article 148 (which became article 147) was modified to state the following:

"Quien ofendiere de palabra o por escrito, o de cualquier otra manera irrespetare al Presidente de la República o a quien esté haciendo sus veces, será castigado con prisión de seis a treinta meses si la ofensa fuere grave, y con la mitad de ésta si fuere leve. (...) La pena se aumentará en una tercera parte si la ofensa se hubiere hecho públicamente."⁷

Again condemning Venezuela's low toleration of open criticism toward the government, the Inter American Press Association also cited Principle 10 of the Declaration of Chapultepec, which states that "no news medium nor journalist may be punished for publishing the truth or *criticizing or denouncing the*

⁵ Declaration of the Global Coordinating Committee of Press Freedom Organizations, March 14, 2007. See http://www.freerctv.com/docs/Declaration_GCCPFO_Mar07.pdf. See below for a discussion of RCTV's right to appeal mentioned here.

⁶ See http://www.freerctv.com/case_info.php.

⁷ "That individual who might offend in speech, in writing or in any other form the President of the Republic or someone fulfilling this role, will be punished by six to thirty months of imprisonment if the offense is severe, or half of this time if it is moderate. (...) The punishment will be more significant if the offense was committed publicly." See article 8 of the reform at http://www.tsj.gov.ve/gaceta_ext/marzo/160305/160305-5763-01.html, also detailed at <http://www.asobanca.com.ve/data/archivos/200202/ReformaC%F3digoPenal.pdf>.

government"⁸. This consideration is especially relevant to the context of RCTV's non-renewal, since it pinpoints the Chávez government's primary complaint: that RCTV was guilty of siding against the government during the 2002 coup. At its mid-year meeting for 2007, the IAPA emphasized the issue by resolving to "denounce before the international community the dictatorial violation of freedom of expression by the regime of Lt. Col. Hugo Chávez in Venezuela", and to "repudiate the *politically motivated* decision by President Chávez and his administration, with no legal basis whatsoever, to close the country's leading channel Radio Caracas Televisión"⁹.

These accusations bring up the question of whether the license non-renewal was legally acceptable beyond political (and thus necessarily subjective) justifications, and whether the action constituted an "abuse of government" power as mentioned by AIDIC and IAPA.

2. The quarrel over expiration dates

Regardless of other factors, was the non-renewal of the license legal *per se*? There was contention in this regard over whether or not it was due to expire in May 2007 – as in, whether it was permissible in the first place for the government to approve or oppose its renewal at this time.

The government argued that decree 1 577 from May 27th, 1987¹⁰, issued by then President Jaime Lusinchi, granted RCTV a broadcast license for 20 years, which would make it expire on May 27th, 2007. RCTV, in contrast, pointed out article 201 of the *Ley de Telecomunicaciones*, according to which licenses are supposed to be renewed in the form of administrative authorizations. This article says specifically that "la transformación de los títulos jurídicos deberá efectuarse dentro de los dos años siguientes a la publicación de la presente Ley en la Gaceta Oficial"¹¹ from March 28th 2000.

⁸ http://www.declaraciondechapultepec.org/english/declaration_chapultepec.htm. It should be noted that Venezuela does not yet count among the 'presidential signatures' of this particular Declaration.

⁹ See <http://www.sipiapa.com/pulications/resvenezuela2007ca.cfm>. The IAPA statement also refers to the expropriation of RCTV facilities that accompanied the license non-renewal. RCTV facilities were expropriated at the time of their transfer to the replacement channel TEVES. Here again, a point of contention reprehended by the international community and upheld by the government, as reported by Telesur: "El 25 de mayo de 2007, y en menos de 48 horas, el Tribunal Supremo de Justicia de Venezuela ordenó el embargo del material de RCTV para dárselo al nuevo canal público Televisora Venezolana Social (Tves), que le sucede en el segundo canal. Pero es que la ley orgánica de telecomunicaciones, del 12 de junio de 2000 -aprobada ya durante el mandato de Hugo Chávez-, establece que el material pertenece a los medios de comunicación, y que sólo las frecuencias son propiedad del Estado." (<http://www.telesurtv.net/secciones/notasdeopinion/226/campana-de-reporteros-sin-fronteras-contra-venezuela/>.) The Supreme Court ruled, however, that this property belongs to the State who could thus legitimately take over RCTV facilities and equipment as part of the license termination (See <http://www.tsj.gov.ve/decisiones/scon/Mayo/957-250507-07-0731.htm>.)

¹⁰ See Gaceta Oficial N° 33.796.

¹¹ "The transfer of the legal titles must be carried out within the two years following the publication of this present law in the Official Bulletin" from March 28th 2000. See http://www.tsj.gov.ve/legislacion/LT_ley.htm for the full article 201 published in Gaceta Oficial No. 36.920 of March 28 2000.

Based on this, RCTV argues that failure by CONATEL (Comisión Nacional de Telecomunicaciones) to issue the administrative authorization by June 12th 2002 resulted in automatic renewal. Since the broadcast license for RCTV is normally renewed for 20 years and every legal requirement was met in 2001 for the authorization, the channel insists that the license should expire on June 12th 2022. However, the government dismissed this interpretation of article 210, arguing that the renewal of broadcast licenses is not automatic¹².

The government also relies on article 156 of the Constitution ("Es de la competencia del Poder Público Nacional: el régimen del servicio de correo y de las telecomunicaciones, así como el régimen y la administración del espectro electromagnético"¹³) and the *Ley Orgánica de Telecomunicaciones* ("El régimen integral de las telecomunicaciones y del espectro radioeléctrico, es de la competencia del Poder Público Nacional y se regirá por esta Ley, sus reglamentos y demás disposiciones normativas que con arreglo a ellas se dicten"¹⁴), which both place telecommunications regulation – including license renewals – in the hands of the government. This functioning is not especially unique Venezuela: it exists in other countries, namely in the United States with the Federal Communications Commission (FCC). In the case of RCTV, the non-renewal decision was made through CONATEL, the Venezuelan equivalent of a governmental telecommunications regulation institution.

3. RCTV's right to a fair trial

Not surprisingly, RCTV appealed against the non-renewal decision, but the appeal was rejected by the Supreme Court. Its February 9th, 2007 ruling established that CONATEL was entirely in its own right deciding whether to renew or not the RCTV license in May 2007 and that the license cancellation could follow through as scheduled¹⁵. This rejection of the appeal was interpreted by many as a blatant denial of RCTV's right to a fair trial. The Latin American Association of Information and Communication Rights (AIDIC) claimed that the ruling violated article 8 of the American Convention on Human Rights on a right to fair trial and defense, as well as article 49(1) of the Constitution that reads as follows¹⁶:

"La defensa y la asistencia jurídica son derechos inviolables en todo estado y grado de la investigación y del proceso. Toda persona tiene derecho a ser notificada de los cargos por los

¹² See *El Universal* article for discussion: http://english.eluniversal.com/2007/05/23/en_rctv_art_legal-specifics_23A873247.shtml.

¹³ "The National Public Authority withholds responsibility for the following: the management of postal and telecommunications services, as well as the management and administration of electromagnetic transmission". See article 156 (No. 30): <http://www.venezuela-oas.org/Constitucion%20de%20Venezuela.htm>.

¹⁴ "The comprehensive management of telecommunications and radio transmission is the responsibility of the National Public Authority, and will be determined by this Law, including its rules and additional normative instructions pertaining to these fields." See article 3: http://www.tsj.gov.ve/legislacion/LT_ley.htm.

¹⁵ See <http://www.tsj.gov.ve/decisiones/scon/Mayo/920-170507-07-0197.htm>.

¹⁶ See http://www.freerctv.com/docs/Declaration_AIDIC_Mar07.pdf.

cuales se le investiga, *de acceder a las pruebas y de disponer del tiempo* y de los medios adecuados para ejercer su defensa. Serán nulas las pruebas obtenidas mediante violación del debido proceso. Toda persona declarada culpable tiene derecho a recurrir al fallo, con las excepciones establecidas en esta Constitución y la ley."¹⁷

The European Parliament confirmed this concern with the statement that "if there is any substance to accusations which have been made by the authorities against the RCTV management, these could be tested through 'ordinary legal proceedings'" – as in, a fair trial¹⁸.

However, although the Supreme Court refused to suspend the non-renewal decision, it seems that it did in fact follow through with a trial that is currently in progress. As of March 6th 2008, the court was deliberating on the question of "la supuesta retaliación política por parte del Gobierno Nacional, en el acto de no renovar la concesión a RCTV (...), así como tampoco que se verifique una violación al derecho de libertad de pensamiento y expresión de los demandantes o una desviación del poder en el acto impugnado, [y que] exista una supuesta violación sistemática por parte del Estado Venezolano de los derechos humanos"¹⁹.

¹⁷ "Defense and legal assistance are inviolable rights at any stage and level of the investigation and of the trial. Every individual has the right to be informed of the charges that are being investigated pertaining to him or her, to view evidence and to dispose of time and adequate means to carry out his or her defense. Evidence obtained in violation of this due process is not valid. Every individual pronounced guilty has the right to appeal, with the exceptions established by this Constitution and the law."

See <http://www.venezuela-oas.org/Constitucion%20de%20Venezuela.htm>.

¹⁸ See http://www.europarl.europa.eu/news/expert/infopress_page/015-6878-141-05-21-902-20070516IPR06781-21-05-2007-2007-false/default_nl.htm.

¹⁹ "the alleged political retaliation by the National Government, through the act of not renewing the RCTV concession, (...) and of whether the contested action is a violation of the right to freedom of thought and expression of the plaintiffs or a misuse of power, [and if] there was an alleged systematic violation of human rights by the Venezuelan State." See <http://www.tsj.gov.ve/search4/oop/qfullhit2.htw?CiWebHitsFile=%2Fdecisiones%2Fjspa%2Fmarzo%2F107%2D6308%2D2008%2D07%2D411%2Ehtml&CiRestriction=%40Contents+rctv&CiBeginHilite=%3Cb+class%3DHit%3E&CiEndHilite=%3C%2Fb%3E&CiUserParam3=/search4/buscador.asp&CiHiliteType=Full>.

II. The case for "social responsibility"

1. RCTV's role in the 2002 coup

If not renewing the RCTV license was in fact a legal option for Chávez's government, then assessing the RCTV case depends on the validity of the set of justifications backing the decision. RCTV's legitimacy was challenged for its violation of "social responsibilities", especially via the accusation that the channel "supported" the 2002 coup.

Overall, participation in conspiracy against a democratically elected government is indeed subject to punishment. In the United States for example, if an individual or organization of any kind incited public hostility, violence or anti-government rebellion, they would be subject to fine and/or imprisonment for up to 20 years for the crime of sedition under Section 2384 of the US code (Title 18). They might also be subject to prosecution for treason under article 3 (section 3) of the US Constitution stating: "Treason against the United States, shall consist only in levying War against them, or in adhering to their enemies, giving them Aid and Comfort", which might be interpreted as instigating an insurrection and/or sabotage to the government. As the New York-based organization Fairness & Accuracy In Reporting (FAIR) mentioned in its commentary of the RCTV scandal, "were a similar event to happen in the US and TV journalists and executives were caught conspiring with coup plotters, it's doubtful they would stay out of jail, let alone be allowed to continue to run television stations, as they have in Venezuela"²⁰.

However, it depends on how exactly RCTV "supported" the coup. Details in the *Libro Blanco* - released by Chávez's government to justify its decision regarding the license - explain specifically how the channel's actions backed the coup through the editorial choices it made during the events, such as omitting footage of pro-Chávez demonstrations that followed the coup²¹. An excerpt from the book's opening pages detail this accusation among other infractions: "en este documento se muestran evidencias de que RCTV suplantó a los actores políticos y fabricó sus mensajes, violó a la libertad de información, *instigó a la guerra civil y al golpe de Estado, atentó contra el equilibrio de poderes*, ha establecido carteles económicos, entre otras conductas alejadas de la responsabilidad social que exige el Estado y la sociedad a quienes son empresarios y además usufructúan una porción del espacio electromagnético"²².

²⁰ <http://www.fair.org/index.php?page=3022>

²¹ See pp. 58-63: http://www.fundacenafv.gob.ve/portal//images/stories/pdf/libro_blanco_RCTV-Web.pdf.

²² "In this document we show evidence that RCTV took on the role of political players and fabricated their speeches, violated freedom of information, instigated civil war and the government coup, threatened the balance of powers, created economic cartels, among other forms of conduct contrary to the social responsibility that the State and society expect of entities in the business world who also make use of a portion of space reserved for telecommunications transmission." See pp. 11-12, Ibid.

In particular, the book cites RCTV's violation of articles 57, 58 and 108 of the Constitution to demonstrate that the channel's failure to provide objective coverage was not legal:

"Artículo 57. (...) No se permite el anonimato, ni la propaganda de guerra, ni los mensajes discriminatorios, ni los que promuevan la intolerancia religiosa. (...)

Artículo 58. La comunicación es libre y plural, y comporta los *deberes y responsabilidades* que indique la ley. Toda persona tiene *derecho a la información oportuna, veraz e imparcial, sin censura*, de acuerdo con los principios de esta Constitución (...).

Artículo 108. Los medios de comunicación social, públicos y privados, deben contribuir a la *formación ciudadana*. (...)." ²³

According to Chávez's government, RCTV's incomplete broadcasting coverage of facts pertaining to the 2002 coup qualified as violating the "responsibilities" of a media outlet whose information flow must remain "truthful and impartial" to serve the public interest of "educating for citizenship", as cited in articles 59 and 108 above. These controversial interpretations of RCTV's level of responsibility in the 2002 coup touch upon the issue of whether (and to which extent) the media should be held legally accountable for a lack of accuracy in its representation of key political events. According to the Chávez government, the RCTV channel was not "socially responsible" – a concept that is crucial to any democracy but remains challenging to define and enforce.

2. The channel's violation of "social responsibility"

RCTV already had a long history of violating Venezuelan law. A summary is detailed in the *Libro Blanco* and other government sources, citing instances such as RCTV's reporting false information, broadcasting prohibited pornographic content or tobacco advertisements, and defaulting on fiscal obligations²⁴. Infractions like these served as additional grounding for the decision against renewing the channel's license.

²³ "Article 57. (...) Anonymity, war propaganda, discriminatory messages or those that promote religious intolerance are forbidden. (...)

Article 58. Communication is free and plural, and implies obligations and responsibilities as indicated by the law. Every individual has the right to timely, truthful and impartial information, without censorship, in accordance with the principles of the Constitution (...).

Article 108. Communications media in society, both public and private, must contribute to building citizenship. (...)."

²⁴ See <http://www.consulvenbarcelona.com/rctv.html>, Ministerio del Poder Popular para la Comunicación y la Información de la República Bolivariana de Venezuela, and Comisión Nacional de Telecomunicaciones de la República Bolivariana de Venezuela:

- 1976, cerrada por un lapso de tres días por 3 días. Gobierno de Carlos Andrés Pérez por difundir noticias falsas y tendenciosas.
- 1980, cierre por 36 horas por programación "sensacionalista", cuadro sombrío y relato de hecho poco edificante. Gobierno de Luís Herrera Campins.
- 1981, cierre por 24 horas, por escenas consideradas "pornográficas". Gobierno de Luís Herrera Campins.
- 1984, Amonestada por ridiculizar "en forma humillante" al Presidente y su esposa. Gobierno Luís Herrera Campins

Unlike these typical infractions, violations of aspects of "social responsibility" that are not spelled out in the laws are more ambiguous to discern. In terms of failing to serve public interest, RCTV's editorial line tended to comply with the will of its owners – namely the family of representatives such as Marcel Granier, executive director of RCTV and president of the channel's parent company IBC. The government argued that in general – and specifically in its representation of the 2002 events – RCTV favored the interests of its executive leaders over that of its audience. An article on the topic by Germán Ayala Osorio, political scientist at the Universidad Autónoma de Occidente in Cali, Colombia expressed the issue pointedly:

"El hecho de apoyar un golpe de estado contra un mandatario y un gobierno elegidos democráticamente configura, sin duda, un delito. De ser así, lo que queda claro es que *las familias accionistas no separaron sus particulares intereses políticos, de las funciones y deberes propios de la empresa mediática RCTV*. Por un lado va la acción política que como ciudadano puede ejercer un empresario o un conjunto de ellos, y por el otro va *el uso de un medio de comunicación para sostener un proyecto político con claros objetivos de desestabilizar un régimen político elegido bajo reglas democráticas*."²⁵

In this sense, by choosing not to broadcast key information pertaining to the 2002 coup, RCTV went against the principle in Venezuela's *Ley Resorte* highlighting "*la responsabilidad social de los prestadores de los servicios de radio y televisión, los anunciantes, los productores nacionales independientes y los usuarios y usuarias, para fomentar el equilibrio democrático entre sus deberes, derechos e intereses a los fines de promover la justicia social y de contribuir con la formación de la ciudadanía, la democracia (...)*"²⁶. The

• 1989, cierre por 24 horas, por la transmisión de mensajes publicitarios de tabaco y cigarrillos. Gobierno de Carlos Andrés Pérez II.

• 1991, suspensión del segmento "La Escuelita" del programa "Radio Rochela". Ratificada por la Corte Suprema de Justicia. Gobierno de Carlos Andrés Pérez II.

OTROS COMPORTAMIENTOS DE RCTV

RCTV ha desarrollado prácticas desleales como:

- 2005 PROCOMPETENCIA, mediante Resolución N o SPPLC/0007-2005, determinó que: RCTV, C.A. y Venevisión incurrieron en prácticas contrarias a la libre competencia tales como: acuerdos o prácticas concertadas tanto para fijar tarifas y condiciones de comercialización para repartirse el mercado. La Sanción a RCTV, CA. fue de B s. 21.360.723,955,13
- 2003: SENIAT, Reparación Tributaria por los periodos fiscales 2001, 2002 y enero 2003, por un monto de Bs. 2.596.281.888,09. A la fecha la empresa no ha cancelado y el caso se encuentra en Tribunal Contencioso Tributario.
- 2004: CONATEL, Reparación Tributaria por los periodos fiscales correspondientes a los años 1999 al 1er trimestre 2002, por un monto de Bs. 1.494,729.486,00. Sentencia a favor de CONATEL. Recientemente Tribunal Superior 8vo. declaró con lugar Resolución Culminatoria de CONATEL. □

²⁵ "The act of supporting a political coup against a leader and a government elected democratically constitutes, without doubt, an offense. It is clear that the shareholder families did not distinguish their own political interests from the functions and duties pertaining to the RCTV media company. It's one thing for a business owner or colleague to carry out political actions in their role of citizen, but yet another issue to use a communications medium to support a political project clearly aimed at destabilizing a political regime elected according to democratic principles."

See <http://www.voltairenet.org/article148909.html>.

²⁶ "the *social responsibility* of radio and television service providers, advertisers, independent national producers as well as users, to promote a democratic balance between their duties, rights and interests in order to enhance social justice and contribute to building citizenship and democracy (...)". See article 1 of the legislation at <http://www.leyresorte.gob.ve/index.asp>.

law goes on to specify that media should "*promover el equilibrio entre los deberes, derechos e intereses de las personas, de los prestadores de servicios de divulgación y sus relacionados*" (article 3, section 6)²⁷.

3. TEVES: a "public service" alternative

Ultimately, on the basis of what the Chávez government tagged as a lack of "social responsibility" in broadcasting choices, RCTV's license was cast aside in order to make room for a new "public service" television channel: Venezuelan Social Television or TEVES. The new channel will be funded by the government until it manages to subsist on its own. According to the decree that led to its creation, it is supposed to guarantee broadcasting that serves public interest through a range of programs whose content will remain explicitly independent of its funding sponsors:

"Artículo 3: En ejercicio de sus funciones la Fundación (TEVES) realizará las siguientes actividades: 1. Diseñar la estructura de la programación, atendiendo a lo dispuesto en la Ley de Responsabilidad Social en Radio y Televisión, consistente en: Producción Nacional Independiente, Producción Regional, Producción Comunitaria o Alternativa, Producciones elaboradas por las universidades públicas y privadas, (...).

Artículo 4: (...) *Las donaciones y aportes realizados por las personas indicadas anteriormente, no otorgan a éstas derecho alguno, in facultad para intervenir en la dirección, administración y funcionamiento de la Fundación. (...).*"²⁸

A laudable start, if appropriate levels of "social responsibility" can in turn be guaranteed in TEVES broadcasting.

²⁷"work toward a balanced compromise among the duties, rights and interests of the people, the media service providers and affiliated individuals" (article 3, section 6).

²⁸ "Article 3: The functions of the Foundation (TEVES) will include the following: 1. Design the structure of programming, according to the *Ley de Responsabilidad Social en Radio y Televisión*, including: national independent production, regional production, community or alternative production, productions carried out by public and private universities, (...).

Article 4: (...) The donations and support provided by those entities previously cited, do not grant them any right to intervene in the leadership, administration and management of the Foundation. (...)"

See Decreto N. 5.349 11 de mayo 2007 in Gaceta oficial 38 681:

<http://www.tsj.gov.ve/gaceta/mayo/110507/110507-38681-18.html>

Concluding remarks

Regardless of one's opinion on the RCTV case, it seems clear that the channel somehow violated its social responsibility, as media outlets tend to do all over the world, including in democracies. Deciphering the RCTV case hinges on the question of enforcing this social responsibility in media coverage: how do you define a television channel's responsibilities toward its audience? Which of these so-called responsibilities should be recommended informally, and which should be officially prescribed by legislation so as to be regulated and liable to tangible sanctions? Also, in the case of RCTV: is a violation of "social responsibility" sufficient justification for a governmental telecommunications regulatory entity (CONATEL, or the FCC in the US) to not renew a broadcasting license? The question pertains to Venezuela, as to many countries beyond.