

The MEDIADDEM report: towards an integrated media policy in Europe?

38th EPRA meeting

Vilnius – 4th October 2013

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Mediadem project description

- 📌 MEDIADEM is a European research project on media policies for free and independent media.
 - ➔ The project examines the configuration of state media policies that target or conversely constrain the development of free and independent media.
 - ➔ 12 EU countries (Belgium, Bulgaria, Denmark, Estonia, Finland, Germany, Greece, Italy, Romania, Slovakia, Spain and the UK) and 2 EU candidate countries (Croatia and Turkey).
 - ➔ Analysis across media sectors and various types of media services, including 'new' media services.
 - ➔ Domestic socio-political context and external regulatory pressures (EU, Council of Europe).
- 📌 **Project duration:** April 2010-March 2013

Phase 1: State of the art

- Collection of background information on the 14 media policies and landscapes under study; the media-related action of the European Union and the Council of Europe.
- Reaching a common understanding on key concepts upon which the project is founded (e.g. 'media policy', 'media freedom and independence').

Phase 2: Case-studies

- Empirical research in the 14 countries under study:
 - Investigation of media policy tools and the processes through which the rules are applied, monitored and enforced including state regulation, co-regulation, self-regulation covering traditional media and new media service

Phase 3: Comparative analysis

- Cross-state and cross-media comparative report which will explain variable patterns of media policy-making and regulation to the benefit/detriment of media freedom and independence.
 - ⇒ The independence of public service media in Europe.
 - ⇒ Media policy strategies of the MEDIADEM countries from central and eastern Europe and their implications for media freedom and independence.
 - ⇒ Media policy strategies pertaining to new media services and their implications for media freedom and independence.
 - ⇒ Journalists' professional autonomy as a factor supportive of freedom of expression and the right to information.
 - ⇒ Domestic and European courts and their contribution to the protection of media freedom.
- Report on media freedom and independence: The regulatory quest for legitimacy, effectiveness, quality and enforcement.

Phase 4: Policy development

- Formulation of concrete policy recommendations for state and non-state actors involved in media policy-making, the European Union and the Council of Europe for the promotion of free and independent media

Media freedom and pluralism

Increasing attention by EU institutions

- 📌 The attention addressed to media freedom and independence, and the corollary media pluralism has increased recently.
- 📌 Publication of several studies and in-depth analysis under different perspectives but with a convergent objective: the improvement of the existing media policy so as to tackle a sector that is undergoing a process of change due technological developments
- 📌 Mediadem policy recommendations take into account the recommendations put forward by institutional bodies and by recent studies and tries to underline the areas where there is a shared need for intervention
 - The studies mentioned in the following slides are
 - ⇒ High Level Group, Final report 2013
 - ⇒ Centre for Media freedom and media pluralism, Policy Paper 2013
 - ⇒ EP study, Citizens' right to information 2012
 - ⇒ Final report of the Levenson Inquiry 2012
 - ⇒ Council of Europe, Recommendation 2011(7) on a new notion of media
 - Additionally recent political interventions such as
 - ⇒ EP resolution on the EU Charter: standard settings for media freedom across the EU, 2013

Mediadem project – underlying assumptions

Issue of competence was set aside

Constitutional foundations of media regulation

Constitutional foundation of regulatory alternatives

- Freedom of expression **confers and allocates the power to choose among different regulatory approaches**
- Implications: freedom for national and transnational bodies to select different regulatory strategies within a coordinated framework

Integrated notion of media

- It reflects the supply chain perspective

Coordinated approach to regulation

- Public & private
- Multi-level framework

The current media landscape

- 📌 Internet communication had a disruptive effect on traditional means of information distribution, and this is even clearer in news supply chains.
- 📌 **News production process**
 - from a structure that was based on two main actors (news agencies and publisher/networks) to a more fragmented structure that involves either new content producers and new intermediaries.
- 📌 The situation is not stable and new trends are emerging, heading to the **vertical integration of content production phase**
- 📌 **New business models** have emerged modifying the identity of standard setters and the operation of private regulation.

- 📌 The sectorial approach to media regulation does not reflect the complexity and heterogeneity of information sources.
- 📌 The former trends pave the way for a more integrated approach to media policy.
- 📌 **Integrated notion of media implies that new and conventional media should be considered as part of the same regulatory field.**
- Adopt a functional distinction among media, rather than uniform regulation of all media
 - **linear/non-linear** divide already put forward a graduated approach of regulation which takes into account the interaction with citizens/users (Valcke, 2011)
- 📌 EU bodies and institutions still lack of consistency, due to the difficulty of grounding the regulatory approach on the online/offline distinction
 - Problems of interpretation allow opportunities for arbitrage.

PR 1 . An integrated approach to media regulation

- **European Commission** should lay the foundations for a revised approach to media regulation
 - Issues to be addressed can include
 - ⇒ Technological neutrality and its the allocation of duties and obligations on media outlets
 - *Confirmed by High Level Group Recommendation n. 11*
 - ⇒ Allocation of editorial control and responsibility across the information supply chain with the subsequent distinction between mere communication or media service providers
 - *Confirmed by CoE Recommendation on a new notion of media*
 - ⇒ Monitoring the allocation of property rights over information
 - ⇒ Protection of professional exercise of journalistic activity
 - *definition willingly not provided by High Level Group*
 - ⇒ Definition of public service obligation

PR 2. A technology-neutral approach to media regulation

- ↳ **Technological neutrality** within media policy is to be framed through a definition of media outlet which is not based on the forms of information transmission.
- ↳ Where the definition of media outlet is based on the type of **activity** carried out, then possible duties and obligations can emerge, eventually including
 - ➔ responsibility to promote pluralism
 - ➔ responsibility for copyright infringement
 - ➔ Liability for defamation, etc.
- ↳ The most relevant feature to identify media is **editorial control** over the content distributed
 - ➔ “Google’s ground-breaking use of the volume of links from other sites as a criterion for ranking search results was itself the result of Google engineers’ editorial judgment that inbound links provided a sound and quantifiable measure of a site’s value. Search engine results are thus the speech of the corporation, much as the speech created or selected by corporate news-paper employees is the speech of the newspaper corporation.” (Voloch and Falk, *First Amendment protection for search engines’ search results*, 2012)

- 📌 **EU institutions** should promote and operationalise the principle of technological neutrality in all media policy interventions
 - ➔ *Confirmed by High Level Group Recommendation n. 13*
- 📌 This can be achieved through the adoption of the following underlying features:
 - ➔ the definition of ‘media’ should refer to the **aggregation and provision of information to a generalised audience**, coupled with **editorial control**.
 - ⇒ *Confirmed by Criteria 2 and 3 of the CoE Recommendation on new notion of media*
 - ➔ the allocation of **duties and obligations** to media outlets should not depend on the technology used to provide information.
 - ⇒ *Confirmed by EP study, Citizens’ right to information 2012*
 - ➔ **public service privileges and obligations** should be applied regardless of the type of technology used to provide information.

Public – private regulation in media

- 📌 The field covered by media regulation is very wide.
- 📌 Several factors segment media regulation:
 - 📌 distinction between media (i.e. service provision) and electronic communication (i.e. technical infrastructures),
 - 📌 distinctions across media sectors (press, broadcasting and new media).
- 📌 Although technical convergence and market developments will fade out these distinctions; however, **segmentations** are still reflected in the type of regulation in force.
- 📌 The boundary between public and private regulation is not neat: several shades between the two extremes exist, depending on the **type of actors** involved in the regulation and the **role** they carry out within the regulatory process.

PR 3. Strengthen institutional and governance arrangements

- **EU institutions** should aim at developing **pan-European coordination of regulatory approaches**, use of soft law, promotion of private regulation, where appropriate, and effective exchange of best practices.

Importance of private regulation is confirmed by the EP Resolution on EU Charter 2013

- Recognises that continued self-regulation and non-legislative initiatives, where they are independent, impartial and transparent, have an important role to play in ensuring media freedom; calls on the Commission to take measures to support the independence of the media and its regulatory agencies, from both the state (including at European level) and from powerful commercial interests;. (point 9)

📌 EP resolution on EU Charter 2013

“Underlines the importance of setting up self-regulatory bodies of the media, such as complaints commissions and ombudspersons, and supports the practical, bottom-up efforts initiated by European journalists to defend their fundamental rights by instituting a drop-in centre to document alleged violations of those rights, notably of their freedom of expression” (p. 26)

⇒ *However, an effort towards **coordination** at European level among private regulatory bodies is still lacking*

📌 Possible role for NRAs at national and supranational level as a **monitoring body** for hybrid regulatory bodies and, eventually, **(public) counter-party for a dialogue** with the pan-european private regulatory body

↳ *Proposal of High Level group, 2013*

A **network of national audio-visual regulatory authorities** should be created, on the model of the one created by the electronic communications framework. It would help in sharing common good practices and set quality standards...

- Contact committee to be substituted by a BEREC-like institution?

↳ *EP resolution of EU charter, 2013*

- Calls on the National Regulatory Authorities to cooperate and coordinate at EU level on media matters, for instance by **establishing a European Regulators' Association for audiovisual media services ...**

- 📌 Increasing and strengthening **communication with the national coordination bodies and media policy actors** in order to root the institutional and governance arrangements in the real contexts of media functioning.
- 📌 **Promoting the strengthening of the role and powers of EPRA**
- 📌 Fostering coordination between BEREC and EPRA and also between BEREC and the Contact Committee