

10 Challenges and Confusion in Media Regulation

A Four-Country Comparison

*Hannu Nieminen, Alessandro D'Arma,
Claudia Padovani and Helena Sousa*

INTRODUCTION

In this chapter we discuss recent developments and challenges in European media and communication policy, focusing on the period following the 2008 global financial crisis. We are especially interested in the implications of the financial crisis and its political repercussions nationally (austerity measures and cuts to public services, growing anti-politics sentiments and widespread dissatisfaction with free-market capitalism and representative democracy) for media and communication policy, understood here in a broad sense, so as to include all electronic communications, such as the Internet, mobile communications, social media etc. Our overarching concern is with the implications of developments in media and communication policy for the democratic functions of the media in Europe.

We ask whether there is any evidence for the notion that the macro-economic and political conditions of recent years have contributed to a reorientation of prevalent approaches to media and communications policy in Europe. There are three aspects to this. Our main question considers whether there has been a shift away from the neoliberal values that influenced European media policy for much of the past three decades. We are also interested in determining whether the crisis has led the EU to use the opportunity to increase its powers and control within media and communications policy over the sovereignty of its member states. Finally, we ask if there are any signs of the 2008 crisis directly influencing different media and communications policy areas. In our analysis we concentrate specifically on three issues drawn from different policy areas: public subsidies (or state aid) to media content providers; protection of minors in the new technological environment; and national broadband policies.

Has there been a move away from neoliberal values emphasising free markets over state intervention and freedom of expression over regulation to protect social values and vulnerable groups? This could be said to be underway if we were to establish that public subsidies to media content-providers have at least been maintained at previous levels in spite of the financial crisis constraining state budgets; policy-makers have taken concrete actions involving new regulations to address growing societal concerns

for the safety of our children in the online environment; substantial public money has been allocated in deploying the national broadband infrastructure, with a view to achieving the goal of universal service.

In the same manner, an increase in EU control of media and communications policy over national sovereignty can be established if the EU Member States now have less sovereignty to decide on public subsidies to media and communications-providers than they had before the crisis; there are increasingly pan-European legal standards for the protection of minors in the digital media environment; there is a unified European broadband policy, decreed and implemented by the EU with the assistance of its member states. Accordingly, we will search for signs of the direct influence of the 2008 crisis in the three policy areas.

We will attempt to find indications as to whether the abovementioned conditions exist by placing our empirical focus primarily (though not exclusively) on four western European countries with different media policy traditions (Hallin and Mancini, 2004): two small countries (Finland and Portugal) and two large ones (Italy and the United Kingdom), the size of a country being in turn a relevant variable in media policy (cf. Just and Puppis, 2012). In addition, and arguably more importantly for our purposes, there are differences in the degree to which these four countries have felt the impact of the global financial crisis on their national economies, the two southern European countries having been engulfed in a deeper economic recession and more political turmoil than either Finland or the UK.

In what follows, we will explore in more detail the three areas of media policy and assess their development in Finland, Portugal, Italy and the UK.

PUBLIC FUNDING AND STATE AID TO MEDIA

Public financing has been a fundamental means of supporting the media in post-war Europe, especially during the first three post-war decades characterized almost everywhere by licence-fee-funded public-service broadcasting monopolies (cf. Humphreys, 1996).¹ Even after the introduction of commercial television in the 1980s and 1990s throughout much of Europe, public financing continued to play an important, and in some cases a predominant, role within national media environments. Here we will focus on public funding to support news media organizations, namely broadcasters and newspaper publishers. They have been the primary destination of the public money channelled into the media, largely due to the major contribution they are expected to make to the democratic process as the main source of political information and commentary on issues of public relevance in contemporary societies. But it should be noted that other media producers (e.g. film companies, animation studios, documentary-makers and video-game developers) often benefit from substantial amounts of public money obtained through various mechanisms (cf. Grant and Wood, 2004; Gibbons

and Humphreys, 2011), not least through public-service broadcasting itself, whose remit, of course, includes not only news and current affairs provision but also provision in popular entertainment genres and support for domestic film and audiovisual industries.

Unlike licence-fee-funded broadcasting in post-war Europe, newspapers, while recognized as serving the public interest, were initially not state-subsidized, as this was interpreted as a potentially distortive influence on press freedom. However, in the 1960s and 1970s, when the newspaper sector showed its first signs of decline, several countries adopted public policies to support the press with the stated aim of promoting a diversity of titles and viewpoints (Murschetz, 1998; Humphreys, 2006). Different forms of press subsidies were introduced and have operated within Europe ever since, including both untied and earmarked subsidies (e.g. for delivery); targeted subsidies for special purposes (e.g. to support party newspapers); tax reductions and VAT exemptions; and reduced postal tariffs. There have been considerable national variations within Europe in the modalities and extent of press subsidies, reflecting, as put by Peter Humphreys (2006, p. 39), “national political, economic and cultural characteristics.” While providing indirect subsidies to the whole sector (e.g. preferential rates of VAT) has been commonplace throughout the EU, direct selective subsidies have tended to be adopted only in countries characterized by either strong welfare and social democratic traditions (such as the Nordic countries) or strong state-interventionist traditions (southern Europe), while more liberal-oriented countries, like the UK, have eschewed them.

These various forms of subsidy schemes in favour of the press have always sat rather uneasily with the EU’s single market policy. According to EU treaties, state aid is not permissible when it distorts competition.² On this basis, there has been growing pressure on EU member states to suspend their various subsidy schemes (e.g. CEC, 2009; generally on EU press policy see Lichtenberg, 2008; Hutchinson, 2007). The case of public-service broadcasting, however, is different. While funding public-service broadcasting also qualifies as state aid from the EU’s perspective, the Protocol on Public Broadcasting to the EU Amsterdam Treaty of 1997 recognized that public-service broadcasting is “directly related to the democratic, social and cultural needs of each society,”³ and accorded member states the freedom to fund public-service broadcasting providing the compensation is proportionate to their public service remit.

Notwithstanding this authoritative source of legitimation, life has been far from assured for public-service broadcasters (PSBs) around Europe during the past twenty years. For instance, the European Commission’s 2009 Communication on State Aid to Public Service Broadcasters was characterized by what has been described as a more restrictive approach to PSBs’ online expansion than was previously the case (Brevini, 2013; see also Donders and Moe, 2012). Overall, however, it is fair to say the institution of public-service broadcasting has shown remarkable resilience in Europe, especially considering the set of challenges it has faced over a long period.

Prior to the global financial crisis of 2008, the challenge to the PSBs was primarily an ideological one, based on a technologically driven argument forcefully put forward by rival commercial interests and their political backers. Simply put, the argument has been that technological advances, most notably new delivery technologies such as digital broadcasting and the Internet, by eroding barriers to entry also remove the main market failures associated with television and thus undermine the rationale for significant public intervention in the form of large stand-alone publicly funded organizations. Even more vociferously, commercial rivals have accused PSBs of crowding out private provision by entering new media sectors where there are no apparent market failures justifying their presence. In many parts of Europe, notably southern and eastern European countries (though by no means only there), PSBs continue to be widely perceived as overly politicized, biased and wasteful organizations, failing in important respects to fulfil their public service remit.

Since the 2008 global economic crisis, the argument against public-service broadcasting has been presented, especially in those parts of Europe worst affected by the crisis, in more pragmatic, almost fatalistic, terms. Indeed, it is argued that European societies facing a prolonged economic downturn can simply no longer afford the luxury of funding PSBs, and the political pressure for smaller, scaled-down PSBs is mounting (cf. Lowe and Berg, 2013; Snoddy, 2013). The second half of 2013 saw the unprecedented closure of two southern European public broadcasters, the Greek ERT (replaced by a new, scaled-back organization) and *RàdioTelevisió Valenciana* (RTVV), one of Spain's regional public broadcasters. Several other PSBs, including those in continental and northern Europe, have had severe funding cuts inflicted, which has led to drastic downsizing.

This also applies to the BBC in the UK – in comparative terms, a PSB traditionally enjoying a strong level of political support. However, the corporation has been under increasing political pressure in recent times after a series of managerial blunders. The BBC Charter is due for renewal in 2017, and it is widely expected the government will use this opportunity to narrow the BBC's public service remit and to continue the financial freeze announced in 2010 that amounts to a sixteen per cent real-terms cut in BBC funds by 2017. The financial squeeze has already forced the BBC to reduce investment levels and the range of services it provides.

In Italy, in recent years RAI's licence fee has been allowed to increase in line with inflation. However, it remains low by comparative standards and is widely evaded (over one in four Italians do not pay it). During the same period, RAI's advertising revenues have been in free fall, in the context of the country's economic recession. Thus RAI is facing severe financial pressures, given its historic dependence on commercial revenue, with the situation worsened by the decision to freeze RAI's licence fee for 2014. As in Italy, in Portugal the PSB RTP has historically been underfinanced and has experienced difficult times recently, amid talk of privatisation (eventually rejected) and a new funding deal announced in late 2013 that further reduces its already meagre budget.

There are exceptions to this rather bleak scenario for public-service broadcasting in Europe. One is Finland, which was one of the first European countries to move from a licence-based financing system to a (generous) wholly tax-based system in 2013. To prevent the government from intervening in the use of this income, the tax is collected in a separate fund used exclusively to finance public broadcaster Yle.⁴ The new financing model has arguably strengthened the overall position of Yle, not only financially but also in terms of public trust.

In the case of press subsidies, there has been a clear trend towards the gradual reduction, or even the complete abandonment, of subsidy schemes in Europe (Murschetz and Trappel, 2014). The reduction in press subsidies, however, predates the financial crisis of 2008–2009. Finland, historically one of the European countries with the most extensive system of press subsidies, slashed almost all direct state aid to newspapers in 2007; the only significant remaining form of subsidy is a reduced VAT rate for print newspapers (cf. Lehtisaari, et al., 2012). Therefore, Finland's approach to press subsidies now appears more restrained than even the UK's, where the only form of state aid to the press is the VAT exemption.

Like Finland, Italy and Portugal have a long tradition of subsidizing the press, but in recent years they have reduced levels of support. In Italy, relatively substantial press subsidies have remained in place, although the system was simplified and the level of support decreased in 2012.⁵ The conclusions of a recent comparative study on public support for news media, which included the UK, Finland and Italy, was that direct subsidies to the press were becoming less common, and that in any case, they are less significant than indirect forms of support (i.e. VAT exemptions or reductions). The latter are “a much more significant form of public support for the media than is commonly realized, worth hundreds of millions of euros per year.” (Nielsen, 2011, p. 4) Another significant finding related to the lack of innovation in public-funding policies, and the author remarked on the lack of public-sector support for online-only media organizations.

Since the adoption of the European State Aid legislation in the late 1960s (cf. Thomas, 2000) there has been pressure for a unitary application of this policy in the area of media and communication. Although the EU State Aid policy is officially based on an economic argument – that public subsidies interfere with the free market principle – there is obviously a strong ideological influence of neoliberalism, which aims to deny the public-service principle and approaches media content merely as a commodity.

From the viewpoint of the EU versus nation states, it seems that, based on the Lisbon Treaty (2007) and the Treaty on the Functioning of the European Union (2010), the EU can use its powers to overcome the sovereignty of the nation states in relation to the positive content regulation, at least in the form of public subsidies. However, the member states still have some means to defend their traditional state aid policies, if they choose to use them.

PROTECTION OF MINORS

Public debates on the need to tackle the dangers children face when using audiovisual media started in the UK and Finland as early as the 1960s. Initially focused on film and television, concerns are now widespread and linked to the digitalization of the media, especially the Internet, social-media platforms and game cultures. Inviting regulatory responses nowadays are issues such as grooming and paedophilia, pornography, excessive violence, advertisements aimed at minors, cyber-bullying, the presentation of children in the media and game dependency.

At the EU level, the protection of minors is addressed in the Audiovisual Media Services Directive (2007, Articles 27 and 12)⁶ and E-commerce Directive (2000). The European Commission does not monitor programmes on an individual basis but rather indicates a minimum set of common rules covering aspects such as advertising and protection of minors in the 'single European TV market' (Directive 2010/13/EU⁷), while monitoring the performance of member states in general. At the same time, the EU has formulated strategies to deal with the particular needs and vulnerabilities of minors using the Internet, with the aim of making the Internet a place of opportunities where children can access knowledge, communicate and develop their skills. One such initiative, part of the EU Digital Agenda, is the Strategy for a Better Internet for Children (COM/2012/0196 final),⁸ which proposes a series of actions to be undertaken by the Commission, member states and the whole industry. Also relevant are initiatives like the Safer Internet Forum,⁹ an annual EU-supported international conference where different actors come together to discuss the latest trends, risks and solutions related to children's online safety, and projects such as EU Kids Online,¹⁰ a multinational thematic network that aims to stimulate and co-ordinate the many nation-based investigations into children's online uses, activities, risks and safety.

A strong emphasis on industry self-regulation arguably characterizes the EU approach to minors' protection,¹¹ while the implementation clearly remains the responsibility of the individual member states, where such responsibilities are shared, to differing degrees, by public authorities, audiovisual industries, Internet service-providers, education professionals and parents. At the national level, we can draw a distinction between 'hard instruments' (legislation and technical tools) and 'soft means' (information and education, support for parental guidance) in the protection of minors. In the four countries observed in this study, it appears there are significant differences in arranging the protection of minors, both in regulatory terms and in relation to the crucial role of parents in supporting/accompanying children.

According to a recent EU Kids Online¹² study on children's online risks and parenting practices across Europe, Finland, together with other Nordic countries, belongs to a group of countries where minors can be defined as

‘supported risky explorers.’ The underlying assumption is that minors cannot be effectively protected from exposure to unwanted content, hence a major role is envisioned for educators and parents, since instead of adopting restrictions to content, the focus is on strengthening trust relationships between minors and educators. Consistently, in Finland the emphasis is on ‘soft means’ such as information campaigns and media education.

Regarding the anticipated harm resulting from exposure to unwanted content, Finnish statistics show there is no evidence that bullying in general, and online bullying specifically, has increased among adolescents in the past ten years. A long-term trend of about five per cent of children having experienced bullying, either through social media or by other means, has remained stable over time (cf. Jokiranta, 2008; Luopa, Pietikäinen and Jokela, 2008). In contrast to the Finnish approach, according to the same EU Kids Online study, the other three countries – the UK, Portugal and Italy – belong to a group where minors are ‘protected by restrictions.’ In these cases, Internet use is limited, and largely restricted to practical activities. Such restrictive mediation may prevent risks, but it may also lead to children missing out on online opportunities.

In Italy, we find a mix of measures, with an emphasis on legally enforced co-regulation. The Code of Auto-Regulation of Media and Minors,¹³ concerned with both minors’ representation and exposure to content, was adopted in 2002, signed by all public and private television companies, and became a law (112/2004) to which all audiovisual content-providers are subject.

Since 2006 (law 38/2006), all Italian Internet service-providers are required to indicate unlawful activities and obliged to institute filtering mechanisms to prevent access to sites and materials containing child pornography. Implementing the law is the responsibility of the National Centre to Counter Paedopornography (Postal Police)¹⁴ and the Observatory to Counter Paedophilia and Pornography of Minors (Department of Equal Opportunities of the Presidency of Ministers)¹⁵. Growing concern in the country also relates to bullying on social networking sites, especially due to tragic events involving teenagers committing suicide that have attracted public and media attention since the end of 2013.

Such an issue is also of great public concern in the UK. Following several cases of teenagers committing suicide after being subjected to online bullying, there have been calls to introduce legislation to criminalize cyber-bullying. Under current UK legislation there is no specific law that makes cyber-bullying illegal but, according to experts, it can be considered a criminal offence under legislation such as the Protection from Harassment Act and the Criminal Justice and Public Order Act.¹⁶

The Conservative British Prime Minister recently announced a “war” against online pornography, describing it a corrosive influence on childhood.¹⁷ British plans to fight child pornography include requiring Internet service-providers to introduce family-friendly filters as default options on domestic Internet connections (the so-called opt-in policy, to

be implemented by the end of 2014), and criminalizing the possession of extreme pornography, which includes scenes of simulated rape. The plans have been heavily criticized both on practical grounds (for being technically impossible to implement) and on substantive grounds (by libertarians).

In Portugal, considerable attention has been paid to the representation of minors in the media. The state media regulatory body, the ERC, created in 2005, systematically monitors television content that represents minors. According to Article 34, Number 1, of the Television Act, all TV broadcasters must comply with “the observance of broadcasting ethics that ensures respect for human dignity, for fundamental rights and other constitutional values, especially the development of children and adolescents’ personality.” In a recent report, the ERC found that in 2009–2010, approximately sixty per cent of the items monitored on television did not use any concealment technique to protect the identity of the children or young people shown (ERC, 2011, p. 46).

To protect children, in 2006 television broadcasters adopted a self-regulatory agreement regarding the classification of programmes,¹⁸ with the main goal of providing consumers with a guide to television programming appropriate for children’s ages and of providing educators with guidelines on programme viewing. Episodic initiatives are also taken by the regulatory body in different domains, such as hate speech or exposure to extreme violence, based on individual complaints. Nevertheless, mechanisms of restraint created by the operators for the prevention of specific situations seem inadequate and ineffective. ‘Soft’ measures are also adopted, as demonstrated by a resolution of the Assembly of the Republic of Portugal in 2008, which recommended the promotion of a national campaign to encourage awareness and prevent the risks children face when using the Internet.¹⁹

The protection of minors is high on the public agenda in all four countries. The rapid diffusion of media technologies and the liberalization of online commercial activities are challenging traditional media regulation, and there is a significant difference in the approaches adopted by public authorities. In Finland, ‘soft’ measures such as education, providing information and self- and co-regulation are preferred; in the other three countries, it appears the emphasis is on restrictive policies and statutory regulation. Here, different national and cultural traditions clearly narrow the EU’s influence and restrict its influence in monitoring and informational activities. It seems obvious that more and in-depth research is needed to increase our understanding of the real challenges and opportunities minors are confronted with in the digital environment, to inform governing arrangements and to determine an adequate balance between ‘soft’ and ‘restrictive’ measures.

BROADBAND ROLL-OUT

The promotion of a high-speed broadband network is one of the EU’s main targets as part of its Digital Agenda 2020. The main motivation is that,

according to the EU, “it is estimated that a 10% increase in broadband penetration brings up the GDP by 1–1.5%.”²⁰ The targets for full European coverage were set by the EU in 2010 as follows:

- “Basic broadband for all citizens by 2013 (target met – satellite broadband is available to raise the coverage to 100 per cent in every Member State);
- Coverage: Next Generation Networks (NGN) (30 Mbps or more) for all by 2020;
- Uptake: 50 per cent of households having 100 Mbps subscriptions or higher.”²¹

The EU strategy is largely based on the expectation that the goals will be met by commercial operators, who will, by 2020, offer almost universal high-speed connectivity in Europe, both to companies and households. Only where there is a clearly defined market failure (i.e. high-speed connections are not commercially viable) will public subsidies be deployed.²² Even then, state aid can be applied only if approved beforehand by the EU.²³

The EU is constantly monitoring the implementation of the European high-speed broadband policy,²⁴ and provides recommendations on its execution to the member states.²⁵ However, despite the EU’s attempts to co-ordinate the rollout, there are major differences, both between the countries and within the countries. For example, while connectivity is almost universal in some of the EU’s northern member states (the Netherlands, Denmark), it remains much less advanced in many southern members (Romania, Greece). Meanwhile, in many urban centres the availability of connections of 100 Mbps or more is abundant, while rural areas often still lack even basic connections.²⁶ Additionally, the EU member states differ widely in their geographies and levels of urbanization, with the effect that the costs of constructing networks differ hugely. The more sparsely populated the areas and the more demanding the geographical conditions, the less commercially viable the construction of the network.²⁷

In Finland, although the promotion of high-speed broadband is a governmental priority, there has been very little public effort deployed to promote its implementation effectively. In 2008, the government adopted a two-stage broadband strategy, according to which by summer 2010, a connection of 1Mbps became a universal service obligation, binding all network operators to offering an affordable Internet connection to all potential customers in their market area. By 2015, a 100 Mbps connection was to be made available to every household.²⁸ The strategy was proclaimed as market-led, as only the connection of five per cent of the most remote households and companies was to be supported by public subsidies (requiring a total of €66-million).

The implementation was left therefore to commercial operators, except for the five per cent in which regional and local authorities were engaged.

There was very little further national guidance available, and no central coordination. The state aid was granted only retrospectively, which forced the local and regional actors (municipalities, small companies, co-operatives) to engage in complicated negotiations on bank loans to finance the network construction (cf. Nieminen, 2013). By autumn 2013, two interim assessments had allowed stakeholders to voice their concerns.²⁹ As part of this process, the Regional Mayor of the Regional Council of Southwest Finland (the country's second largest council), Juho Savo, stated the strategy had failed totally and the responsibility lay with the Ministry of Transport and Communications and its reliance on the market. The problem is that the network operators are only interested in building 4G networks in the densely populated areas that promise quick profits, rather than investing in the fibre-optic broadband that will take several years to produce a profit.³⁰

In Italy, the National Plan for the Development of Broadband³¹ was adopted in 2010, based on previous laws in 2009 and 2010 stipulating the administrative and financial provisions.³² The goal was to eliminate the digital divide by 2013 – which in 2008 still involved more than eight million Italians – mainly through the development of infrastructures (with ADSL connections and, in the most remote areas, also through satellite technologies), and to bring broadband to the whole population with a connection speed of between 2 and 20 Mbps. The plan was amended in July 2013 when Telecom, the Italian incumbent operator, received an authorization from the national regulatory authority (AGCOM) to offer fibre-optic 30 Mbps connections nationally.

Despite the activity of public authorities, the rollout of high-speed broadband has been less successful than hoped. The Italian country evaluation in the EU Digital Scoreboard 2013 reveals a generally problematic situation. "Italy has a relatively low take-up of fixed broadband and a low availability of Next Generation Access. The share of high-speed connections (at least 30 Mbps) is significantly lower than average. Nevertheless, in mobile broadband, take-up on large screens remains above average. Italy should foster further the investment in infrastructure in order to increase the availability of high-speed broadband."³³

The national broadband policy in Portugal has changed quite considerably since 2011 under the direction of the neoliberal post-troika coalition led by Pedro Passos Coelho. The previous socialist governments of 2005–2011 developed an ambitious technological plan,³⁴ but this was suspended in 2011. In line with the Lisbon Agenda, the socialists aimed at developing a knowledge-based economy, with the promotion of high-speed broadband as an important dimension. There was a belief in business innovation and on overcoming scientific and technological backwardness. Several programmes were actually implemented, such as Ligar Portugal/Connecting Portugal,³⁵ with the aim of promoting Portugal to the top five countries in terms of the technological modernization of schools through the expansion of Internet use for students and teachers. Despite the political disputes caused by some

initiatives (the one-laptop-per-child Magalhães programme was probably the most controversial), the socialists' technological plan democratized the Internet in an unprecedented way for the middle classes.

However, the Lisbon Agenda demanded resources and a political will that were simply impossible to achieve after the troika intervention in Portugal. Since then, the promotion of a high-speed broadband network has been left to market operators. The EU Digital Scoreboard 2013 states that Portugal "has a relatively low take-up of fixed broadband, but does considerably better than average regarding the availability of Next Generation Access. In mobile broadband, take-up is lower than average but LTE³⁶ availability is relatively high."³⁷

In the UK, the coalition government that took office in 2010 set the objective of having the best superfast broadband network in Europe by the end of the parliamentary term (by spring 2015 at the latest). The rollout of broadband and superfast broadband networks (at least 30Mbps) has been mostly market-led³⁸ and driven by private investment. In the words of the government minister Jeremy Hunt during the summer of 2010: "(...) When it comes to superfast broadband, there is no question that the market must lead the way. ..."³⁹ Additional public funding has been made available by both the government and local authorities to ensure superfast broadband reaches some of the most rural and hard-to-cover areas (the 'final third of the country').

Thus far, the government is committed to investing £1.6-billion of public funds to extend superfast broadband to ninety-five per cent of premises by 2017.⁴⁰ With regard to mobile networks, licensing and regulatory obligations representing a policy tool used to achieve public interest goals (i.e. the universality of service). The national regulator Ofcom has included coverage obligations in one of the 4G spectrum licences for mobile networks in an effort to ensure near universal availability of broadband. This will provide indoor coverage to ninety-eight per cent of consumers at speeds of 2Mbps by 2017, with at least ninety-five per cent coverage being provided in each of the UK home nations.

The UK national target for fixed broadband networks is for superfast broadband coverage of at least ninety per cent by 2016 and ninety-five per cent by 2017. Currently, the government is exploring options with industry as to how to extend coverage to ninety-nine per cent. However, there is increasing public criticism of the implementation of the government's broadband policy, especially in rural areas. The claim is that when promoting a practical monopoly of only one incumbent company, British Telecom (BT), the government has neglected supervision of the execution. According to the critics, BT has not provided the connections and services promised.⁴¹

According to the evaluation of the EU Digital Scoreboard 2013, "The United Kingdom has a relatively high take-up of fixed broadband and does considerably better than average regarding the availability of Next Generation Access. In mobile broadband, the take-up is one of the highest in the EU."⁴²

The rapid expansion of the high-speed broadband network in Europe involves one of the EU's major industrial and technological initiatives, its

Digital Agenda for Europe 2020. The main expected benefits are industrial and commercial, while it is anticipated it will bring about significant savings in the public service areas of health care, education, social services, etc. From this perspective, the use of the broadband network for information and media services is auxiliary, and this use is only promoted providing it advances the broadband network's rapid deployment.

The problem is that although the Digital Agenda for Europe covers all member countries, its success depends on national resources. Here, the neoliberal ideology and the EU State Aid policy create a hindrance. As the evidence from our four countries clearly indicates, and contrary to the expectations of EU policy, the high-speed network cannot be created on a purely commercial basis. The commercial network operators are not willing to invest in the networks unless they view them as profitable, and this restricts their interest to densely populated regions, cities and suburban areas.

From the viewpoint of the relationship between the EU and its member states, the situation appears to have reached a stalemate. The nation states cannot use their own resources, even if they had them, because of the EU's State Aid policy, while the EU does not have power over national markets.

CONCLUSIONS

The four country cases do not provide a basis for firm conclusions. However, we will offer here some thoughts and suggestions for further policy research.

On the Europeanisation of Media and Communication Policy

Our examples seem to confirm there is no unitary European policy in the areas of media and communication; instead, there are different policies in different policy areas. First, in the case of the protection of minors, the competence of the EU is based on two directives, the Audiovisual Media Services Directive and the E-commerce Directive. Issues other than those covered by these directives belong to the national sovereignty of EU member states.

With regard to public information about the protection of minors and media education, the role of the EU is that of a co-ordinator of national policies and promoter of good practices, while responsibility for the practical implementation lies with national authorities. Furthermore, there is a major cultural divide in Europe concerning the understanding of how best to protect minors from unwanted media content. In northern Europe, the emphasis is on information and education, while countries in central and southern Europe stress control and restrictions.

Secondly, concerning state aid to media, the EU applies a strict market-based policy, according to which public subsidies are permitted only in the case

of significant market failure. On the level of EU member states, we can identify a clear push towards a unified European policy in relation to the media. In the case of newspapers, although a number of EU member states practise a policy of VAT exemption for the press, there appears to be increasing pressure to streamline state aid policy along the EU official line and to stop all direct and indirect forms of subsidies. In contrast, in the case of public-service broadcasting, the EU has guaranteed national sovereignty to its member states in how the fundings is arranged, provided it fulfils the general conditions stipulated originally in the Amsterdam protocol of 1997. As a result, there is traditionally a large variety of funding arrangements, ranging from tax-based (Finland) to a combination of licence fees and advertising (Italy).

Thirdly, the roll-out of high-speed broadband is part of the EU's flagship Digital Agenda 2020 programme, which set numerical targets for 2020 that member states are expected to fulfil. The execution of these targets is left to the member states. There are, however, wide differences between the member states' financial and technological competences. Additionally, there is a lack of effective European-level co-ordination of the implementation. As the target was originally to be achieved by market operators – private telecommunications companies – state aid was to be used only to cover the construction of the network in commercially non-viable areas. However, it has been clear during the process of implementation that this market-driven policy will not be sufficient to reach the EU's 2020 target.

On the Effects of the 2008 Crisis on Media Policy and Regulation

It is difficult to offer general conclusions based on the evidence presented in this chapter. However, in relation to the issue of the protection of minors, it may be possible to state that the financial crisis and increasing competition has led the content and service industries to lower their ethical standards. Additionally, the enhanced possibilities offered by Web2.0 and different social media applications have arguably led content-providers to supersede national and European regulatory mechanisms, and as a result expose children to uncontrolled and unmonitored content.

In relation to state aid for the media, it may be possible to claim that as a product of the crisis, there seems to be political ambivalence between the ideological imperatives of neoliberal policies and the dire reality of the media industries. According to neoliberalist policy doctrines, public subsidies to the media should be rejected, but both European creative industries and the European socio-political stability apparently continue to require public subsidies if they are to survive.

The same is true of high-speed broadband policy. From the viewpoint of the future of European industry and trade, Europe needs an effective high-speed broadband network as soon as possible. The problem is that, contrary to the ideological policy doctrine, the markets have not been able to provide

it as expected, and in this regard the application of more public subsidies starts to become a necessary alternative.

On the Necessity of a New Balance between Commercial and Democratic Needs

Based on our comparison, it appears there is an increased need to find a new balance in media and communication policy between economic interests and democratic, social and cultural needs. There is currently much confusion as to how to (re)construct this balance in the new converging environment, and the long-lasting effects of the crisis that began in 2008 do not make this task any easier. One way of interpreting the situation is that we should not expect the EU to solve the problems on the level of a common European communication policy. Instead, what looks like confusion can be seen as a variety of different contexts and problem-solving-oriented approaches, leaving room for the EU members to implement national resolutions. However, one clear conclusion seems to arise from our analysis: the recognition that the state still matters. Our examples indicate that at least in the areas we discussed, the EU has not been able or willing to form a pan-European regulatory framework for all media and communications.

This may be because the European financial crisis has led to a deepening social and political polarization, the results of which will only become apparent later. However, this perspective appears set to complicate all European policy issues well into the future.

NOTES

1. The UK and Finland were two exceptions to this predominant historic pattern. The UK was the first European country to launch commercial television financed by advertising, ITV (Independent Television), in 1954; Finland was the first Nordic country to allow commercial television in 1957.
2. Retrieved from <http://eur-lex.europa.eu/en/treaties/new-2-47.htm>.
3. Retrieved from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:11997D/pro/09:en.html>.
4. Retrieved from <http://www.lvm.fi/web/en/pressreleases/-/view/1280864?cssType=normal>.
5. Law 103 in 2012; see also Presidency of the Council of Ministers, Department for News and Publishing, Contributions to Publishing Initiatives 2011. Retrieved from http://www.governo.it/DIE/dossier/contributi_editoria_2011/index2011.html.
6. Retrieved from http://ec.europa.eu/avpolicy/reg/tvwf/protection/index_en.htm#27. These rules are supplemented by previous Recommendations on the Protection of Minors and Human Dignity (98/560/EC and 2006/952/EC). An Implementation Report on the Protection of Minors and Human Dignity Recommendations was published in 2011 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011DC0556:EN:NOT>).

7. Retrieved from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:EN:PDF>.
8. Retrieved from <http://eurlex.europa.eu/Notice.do?checktexts=checkbox&val=677844%3Acs&pos=1&page=1&lang=en&pgs=10&nbl=1&list=677844%3Acs%2C&hwords=&action=GO&visu=%23texte>.
9. Retrieved from <http://www.cvent.com/events/better-internet-with-you-th/event-summary-e6c8907d87cf4e719aceb823e13c3463.aspx>.
10. Retrieved from <http://www.lse.ac.uk/media@lse/research/EUKidsOnline/Home.aspx>. Relevant is the database of European research on children and young people's online activities, accessible at <http://www.lse.ac.uk/media@lse/research/EUKidsOnline/DB/home.aspx?query=>.
11. Retrieved from <http://ec.europa.eu/digital-agenda/en/self-regulation-better-internet-kids>.
12. Retrieved from <http://www.lse.ac.uk/media@lse/research/EUKidsOnline/EU%20Kids%20III/Classification/Home.aspx>.
13. Retrieved from <http://www.agcom.it/default.aspx?message=visualizzadocument&DocID=3100>.
14. Retrieved from http://www.poliziadistato.it/articolo/455Centro_nazionale_per_il_contrasto_alla_pedo_pornografia_su_internet/.
15. Retrieved from <http://www.pariopportunita.gov.it/index.php/organismi-collegiali/osservatorio-per-il-contrasto-della-pedofila-e-della-pornografia-minorile>.
16. See the Public and Commercial Services Union (PCS). Retrieved April 14, 2014, from http://www.pcs.org.uk/en/resources/health_and_safety/hazardsatoz/bullying-guidanceformembers.cfm.
17. Retrieved from <http://www.telegraph.co.uk/technology/internet/10194073/Online-porn-David-Cameron-declares-war.html>.
18. Retrieved from www.gmcs.pt/ficheiros/pt/acordo-de-auto-regulacao-sobre-a-classificacao-de-programas-de-televisao-13-09-2006.pdf.
19. Retrieved from <http://www.gmcs.pt/pt/resolucao-da-assembleia-da-republica-n-382008-proteccao-das-criancas-na-internet?crian%C3%A7as>.
20. Retrieved from <http://ec.europa.eu/digital-agenda/en/high-speed-broadband>.
21. Retrieved from <http://ec.europa.eu/digital-agenda/en/broadband-strategy-policy>.
22. Retrieved from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PD.F>.
23. Retrieved from http://ec.europa.eu/competition/sectors/telecommunications/broadband_decisions.pdf.
24. Retrieved from <http://ec.europa.eu/digital-agenda/en/digital-agenda-europe>; <http://ec.europa.eu/digital-agenda/en/scoreboard>.
25. Retrieved from http://ec.europa.eu/information_society/newsroom/cf/itemdetail.cfm?item_id=7948.
26. See Commission Staff Working Document: Digital Agenda for Europe - A Good Start and Stakeholder Feedback. Retrieved from <http://ec.europa.eu/digital-agenda/en/news/digital-do-list-new-digital-priorities-2013-2014>; <https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/DAE%20SCOREBOARD%202013%20-%20202-BROADBAND%20MARKETS%20.pdf>.
27. For example, because of different qualities of the ground within Finland, the costs of laying fibre-optic cable vary from 1 euro/metre to more than 20 euro/metre.
28. Retrieved from <http://www.lvm.fi/en/broadband>.

29. See a 2011 report, retrieved from <https://ec.europa.eu/digital-agenda/en/blog/getting-the-finnish-broadband-strategy-up-to-date>.
30. Retrieved from <http://www.aamuset.fi/naista-puhutaan/uutiset/maakuntajohtaja-savo-laajakaista-kaikille-2015-hanke-totaalinen-floppi>.
31. National Broadband Plan/Piano nazionale Banda Larga. Retrieved from <http://www.sviluppoeconomico.gov.it/images/stories/documenti/adi/TESTO-INTEGRALE-PIANO-NAZIONALE-BANDA-LARGA.pdf>.
32. Laws and normative framework for the implementation of broadband in Italy. Retrieved from http://www.mise.gov.it/index.php?option=com_content&view=article&idarea1=1699&idarea2=0&idarea3=0&idarea4=0&andor=AND§ionid=0&andorcat=AND&partebassaType=0&idareaCalendario1=0&MvediT=1&showMenu=1&showCat=1&showArchiveNewsBotton=0&idmenu=3049&directionidUser=0&viewType=2&cattitle=Leggi.
33. Retrieved from <https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/IT%20%20-%20Broadband%20markets.pdf>.
34. In the government programme of the XVII Constitutional Government, 2005–2009. Retrieved from <http://www.portugal.gov.pt/media/464060/GC17.pdf>.
35. Retrieved from <http://www.ligarportugal.pt/>.
36. LTE = Long Term Evolution; refers to next-generation technology.
37. Retrieved from <https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/PT%20%20-%20Broadband%20markets.pdf>.
38. Retrieved from <http://www.beyondbroadband.coop/kb/government-policy-next-generation-broadband>.
39. Jeremy Hunt, Secretary of State for Culture, Media and Sport, July 15, 2010. Retrieved from <http://webarchive.nationalarchives.gov.uk/20110709203937/http://discuss.bis.gov.uk/bduk/about/>.
40. DCMS 2013, p. 7.
41. Retrieved from <http://www.theguardian.com/technology/2013/sep/26/digital-britain-government-accused-rural-broadband>.
42. Retrieved from https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/UK%20%20-%20Broadband%20markets_0.pdf.

REFERENCES

- Ariño, M. and Llorens, C. (2008) Back to the future: New media, same principles? Convergence regulation re-visited. In: Ward, D. (ed.) *The European Union and the culture industries* (pp. 125–44). London: Ashgate.
- Black, J. (2002) Critical reflections on regulation. *Australian Journal of Legal Philosophy*, 1(27). pp. 1–35.
- Brevini, B. (2012) European Commission media policy and its pro-market inclination: The revised 2009 Communication on State Aid to PSBs and its restraining effect on PSB online. *European Journal of Communication*, 28(2). pp. 183–97.
- CEC (Commission of the European Communities) (2009) *State aid: Commission proposes appropriate measures to bring Swedish press aid into line with single market*. IP/09/940. Retrieved from: http://europa.eu/rapid/press-release_IP-09-940_en.htm.
- Christensen, J. G. (2010) *Public interest regulation reconsidered: From capture to credible commitment*. Paper presented at Regulation at the Age of Crisis, ECPR Regulatory Governance Standing Group, 3rd Biennial Conference, University College, Dublin. June 17–19.

- Donders, K. (2012) *Public service media and policy in Europe*. Basingstoke: Palgrave Macmillan.
- Donders, K. and Moe, H. (eds.) (2012) *Exporting the public value test: The regulation of public broadcasters' new media services across Europe*. Gothenburg: Nordicom.
- Freedman, D. (2008) *The politics of media policy*. Cambridge: Polity.
- Gibbons, T. and Humphreys, P. (2011) *Audiovisual regulation under pressure: Comparative cases from North America and Europe*. London and New York: Routledge.
- Grant, P. and Wood, C. (2004) *Blockbusters and trade wars: Popular culture in a globalised world*. Vancouver: Douglas and McIntyre.
- Hallin, D. and Mancini, P. (2004) *Comparing media systems: Three models of media and politics*. Cambridge: Cambridge University Press.
- Harcourt, A. (2006) *European Union institutions and the regulation of media markets*. Manchester: Manchester University Press.
- Harcourt, A. (2008) Institutionalizing soft governance in the European information society. In: Ward, D. (ed.) *The European Union and the culture industries* (pp. 7–31). London: Ashgate.
- Harold, A. (2008) European film policies and competition law: Hostility or symbiosis? In: Ward, D. (ed.) *The European Union and the culture industries* (pp. 33–57). London: Ashgate.
- Humphreys, P. (1996) *Mass media and media policy in Western Europe*. Manchester: Manchester University Press.
- Humphreys, P. (2006) Press subsidies in the context of the information society: Historical perspective, modalities, concept and justification. In: Fernández Alonso, I., de Moragas, M., Blasco Gil, J. and Almirón, N. (eds.) *Press subsidies in Europe* (pp. 38–54). Barcelona: Generalitat de Catalunya.
- Hutchison, D. (2007) The EU and the press: Policy or non-policy? In: Sarikakis, K. (ed.) *Media and cultural policy in the European Union* (pp. 183–202). Amsterdam, New York: Rodopi.
- IImonen K., Lyytinen, E., Salokangas, R. and Vihavainen, T. (1996) *Yleisradion historia 1926–1996*, 3 kirjaa [*The History of the YLE*; three volumes]. Helsinki: Yleisradio.
- INDIREG (2011) Indicators for independence and efficient functioning of audiovisual media services regulatory bodies for the purpose of enforcing the rules in the AVMS Directive (SMART 2009/0001). Final report by Hans Bredow Institute for Media Research (lead partner); Interdisciplinary Centre for Law & ICT (ICRI), Katholieke Universiteit Leuven; Centre for Media and Communication Studies (CMCS), Central European University; Cullen International Perspective Associates (sub-contractor). Retrieved from: http://ec.europa.eu/avpolicy/docs/library/studies/regulators/final_report.pdf.
- Jokiranta, E. (2008) “VÄLILLÄ VAKAVAA, VÄLILLÄ EI”. *Nettikiusaaminen nuorten keskuudessa* [“SOMETIMES HEAVY, SOMETIMES EASY”: *Cyber bullying among young people*]. Bachelor's thesis. Jyväskylän ammattikorkeakoulu [Jyväskylä University of Applied Sciences]. Retrieved from: http://www.mediakasvatus.fi/files/u4/Opinn__ytety___-Elias_Jokiranta.pdf.
- Jääsaari, J. (2007) *Consistency and change in Finnish broadcasting policy: The implementation of digital television and lessons from the Canadian experience*. Åbo: Åbo Akademi Förlag. Retrieved from: <https://www.doria.fi/bitstream/handle/10024/5995/JaasaariJohanna.pdf?sequence=3>.

- Klimkiewicz, B. (2008) Media pluralism and enlargement: The limits and potential for media policy change. In: Ward, D. (ed.) *The European Union and the culture industries* (pp. 81–104). London: Ashgate.
- Körper, T. and Kamecke, U. (2008) Technological neutrality in the EC Regulatory Framework for Electronic Communications: A good principle widely misunderstood. *European Competition Law Review*, 29(5). pp. 330–37.
- Lehtisaari, K., Karppinen, K., Harjuniemi, T., Grönlund, M., Lindén, C.G., Nieminen, H. and Viljakainen, A. (2012) *Media convergence and business models: Responses of Finnish daily newspapers*. Communication Research Centre (CRC), Department of Social Research, University of Helsinki. Retrieved from: http://www.samk.fi/download/26895_Media_Convergence.pdf.
- Levi-Faur, D. (2011) Regulation and regulatory governance. In: Levi-Faur, D. (ed.) *Handbook on the politics of regulation* (pp. 2–13). London: Edward Elgar.
- Levy, D. (1999) *Europe's digital revolution: Broadcasting regulation, the EU and the nation state*. London: Routledge.
- Lichtenberg, L. (2008) Press concentration, convergence and innovation: Europe in search of a new communications policy. *Central European Journal of Communication*, 2 (1). pp. 49–61.
- Lowe, G. F. and Berg, C. E. (2013) The funding of public service media: A matter of value and values. *International Journal on Media Management*, 15(2). pp. 77–97.
- Lunt, P. and Livingstone, S. (2012) *Media regulation: Governance and the interests of citizens and consumers*. London: Sage.
- Luopa, P., Pietikäinen, M. and Jokela, J. (2008) *Koulukiusaaminen peruskoulun-yläluokilla 2000–2007 [School bullying in secondary school 2000–2007]*. Opetusministeriön julkaisu 2008:7 [Ministry of Education 2008:7]. Helsinki: Ministry of Education.
- Michalis, M. (2007) *Governing European communications: From unification to coordination*. Plymouth, US: Lexington Books.
- Murschetz, P. (2006) State support for the daily press in Europe: A critical appraisal – Austria, France, Norway and Sweden compared. *European Journal of Communication*, 13(3). pp. 291–313.
- Murschetz, P. and Trappel, J. (2014) State aid for newspapers: A summary assessment. In: Murschetz, P. (ed.) *State aid for newspapers: Theories, cases, action* (pp. 375–91). Heidelberg, New York, Dordrecht, London: Springer.
- Nielsen, R. K. (2012) *Ten years that shook the media world: Big questions and big trends in international media developments*. Reuters Institute for the Study of Journalism. Retrieved from: https://reutersinstitute.politics.ox.ac.uk/fileadmin/documents/Publications/Working_Papers/Nielsen_-_Ten_Years_that_Shook_the_Media.pdf.
- Nielsen, R. K. and Linnebank, G. (2011) *Public support for the media: A six-country overview of direct and indirect subsidies*. Reuters Institute for the Study of Journalism. Retrieved from: https://reutersinstitute.politics.ox.ac.uk/fileadmin/documents/Publications/Working_Papers/Public_support_for_Media.pdf.
- Nieminen, H. (2013) *Sadan megan maakunta: loppuarvio [One hundred megabit region: A final assessment]*. Communication Research Centre (CRC). Helsinki: University of Helsinki.
- Prosser, T. (2010) *The regulatory enterprise: Government, regulation and legitimacy*. Oxford: Oxford University Press.
- Psychogiopoulou, E. (ed.) (2012) *Understanding media policies: A European perspective*. Basingstoke: Palgrave Macmillan.

- Rajab, A. (2009) Technological neutrality. *Lex Electronica*, 14(2) (Automne/Fall 2009). Retrieved from: http://www.lex-electronica.org/docs/articles_236.pdf.
- Schejter, A. and Han, S. (2011) Regulating the media: Four perspectives. In: Levi-Faur, D. (ed.) *Handbook on the politics of regulation* (pp. 243–53). London: Edward Elgar.
- Simpson, S. (2008) The changing totems of European telecommunications governance: Liberalization, market forces and the importance of the EU regulatory package. In: Ward, D. (ed.) *The European Union and the culture industries* (pp. 105–24). London: Ashgate.
- Snoddy, R. (2013, December 11) The future of public service broadcasting. *Mediatel Newsline*. Retrieved from: <http://mediatel.co.uk/newslines/2013/12/11/the-future-of-public-service-broadcasting/>.
- Sousa, H., Trützschler, W., Fidalgo, J. and Lameiras, M. (2013) *Media regulators in Europe: A cross-country comparative analysis*. CECS – Communication and Society Research Centre. Braga, Portugal: University of Minho. Retrieved from: http://www.lasics.uminho.pt/ojs/index.php/cecs_ebooks/article/view/1533/1436.
- Statistics Finland (2012) *Turnover of electronic media doubled since 2001*. Retrieved from: http://tilastokeskus.fi/til/jvie/2011/01/jvie_2011_01_2012-12-12_tie_001_en.html.
- Storsul, T. and Syvertsen, T. (2007) The impact of convergence on European television policy. Pressure for change – Forces of stability. *Convergence. The International Journal of Research into New Media Technologies* 2007, 13(3). pp. 275–91. Retrieved from: https://www.duo.uio.no/bitstream/handle/10852/27244/88331_storsul.pdf?sequence=3.
- Thomas, K. P. (2000) *Competing for capital: Europe and North America in a global era*. Washington: Georgetown University Press.
- Trappel, J. and Nieminen, H. (2011) Media serving democracy. In: Trappel, J., Meier, W. A., d’Haenens, L., Steemers, J. and Thomass, B. (eds.) *Media in Europe today* (pp. 135–51). The Euromedia Research Group. Bristol, Chicago: Intellect.