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Recasting the contours of media policy in a political context: An introduction

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1. Introduction

In the past few decades, the media have undergone a fundamental restructuring, along with the policies and tools that intervene to regulate them. Rapid technological change, the intensification of regulatory processes beyond the state, and changes in the dominant ideas regarding regulation and the nature and the role of the media within the society, have all contributed to such a restructuring. The rise of neo-liberal ideas since the 1980s and the 1990s and the increasing pressures on the state to withdraw from and privatise various sectors of the economy have had a fundamental impact on the media. The emergence of commercial broadcasters undermined the state monopoly in broadcasting, which prevailed in most of post-war Europe and challenged its underlying principles and social purpose. Technological advancements and the rise of the ‘new media’, first with the introduction of cable and trans-frontier satellite transmissions, then, more recently, with the emergence of online media services, were catalytic in this regard. They eroded the basis for the ‘scarcity of frequencies’ policy argument, bringing new challenges for policy-makers in terms of media regulation. In addition, globalisation and the extensive mobility of capital have seriously undermined pre-existing forms of national regulation of the media.

In such a changing landscape, there has been a shift in the number and values of the actors and institutions, both within and beyond the state, involved in media policies, policy rationale and regulatory instruments. Such changes have prompted a wealth of scholarly discussion and debate on how to reconceptualise the areas of government action that define the media's structure and operation within the society. They have also raised new questions concerning the relationship between the media and democracy, as well as the ways in which political relations and the distribution of political power both shape and are in turn influenced by the media. By nurturing (ideally) a broadly informed citizenry, the media has been seen as prompting the government to be responsive to the people, contributing to government accountability and control, and thus sustaining democracy.

Besides its presumed service to democracy, the justification for state intervention in the media sector has formed the object of considerable analysis by legal scholars, political scientists and academics specialising in media studies. The economic value of the media has led many to argue that media policy is essentially an 'industrial' policy, aimed at ensuring the conditions necessary for increased competitiveness of the sector at the national and/or international level. Attention has also been drawn to 'market failures' inherent in media activity that require corrective action. It has been claimed for instance, that media operators tend to form strategic alliances and develop oligopolistic behaviour with the aim to offset the unpredictability of public taste and its effects on their economic viability. The need to counterbalance this inclination of the media has been particularly highlighted as an argument in support of regulatory intervention.

While economic imperatives and technological innovation strongly bear upon media policy and regulation, it must be emphasised from the outset that media policy

and regulation is not a disinterested process. Rules and norms are not adopted and applied through bureaucratic, technical procedures. Instead, decision-making for the policy approach is shaped by a series of competing interests that seek to inscribe their values and objectives on the policy agenda and the way media policy is eventually conducted.

The aim of the present volume is to foster a better understanding of media policies in Europe. The book examines national media policies, and seeks to redefine their nature and scope through the study of both traditional and new media in 12 European Union (EU) Member States and two EU candidate countries, respectively: Belgium, Bulgaria, Denmark, Estonia, Finland, Germany, Greece, Italy, Romania, Slovakia, Spain, the UK, Croatia and Turkey. What are the regulatory practices, policy tools and institutional features of the media policies in these countries? How have media policies traditionally developed and what have been the policy principles and values that have shaped them? How are the media policies of the countries under study currently reconfigured under on-going pressures for deregulation and under the impact of technological evolution, European integration and pressures from the global economy? And what are the historical-political forces and socio-economic interests that influence the structure and operation of the media in the countries under review?

The country selection included in the present volume covers a large extent of the variety of European media markets in terms of size, competitive strength and levels of media development and media use, in addition to their diversity in terms of the interrelationship between media structures and political systems. Drawing from the influential work of Daniel C. Hallin and Paolo Mancini in *Comparing Media Systems: Three Models of Media and Politics* (2004), Belgium, Denmark, Finland and Germany fall under the so-called *Northern European/democratic corporatist media*

model. They are thus broadly characterised by strong state intervention through support and regulatory measures for the media, which co-exists with ample protection of media freedom and freedom of expression. Greece, Italy, Spain and (arguably) Turkey belong to the *Mediterranean model*, also known as the *polarised pluralist model*. State intervention in terms of funding and regulation is equally strong in these countries but the media are generally considered to be used as a means to political or other ends. The UK falls under the *North Atlantic/liberal model*, although in terms of state intervention in the media sector, it actually contradicts the model which broadly favours a market-oriented approach. The UK has developed a strong public service broadcasting (PSB) system and commercial broadcasting has also retained a strong public service orientation. Finally, the list of countries includes states from central and eastern Europe in order to take into account the post-communist legacy and explore the specific media policy issues that the countries in political and economic transition generally face.

To be sure, over the past 10 years or so there has been a wealth of studies that explored media regulation at the national level. Scholars have examined the role of the media in the democratic process and have investigated the various means employed to regulate the media often from a comparative perspective (Barendt, 1995; Price, 1995; Hoffmann-Riem, 1996; Humphreys, 1996; Craufurd Smith, 1997; Goldberg, Prosser and Verhulst, 1998; Gibbons, 1998; Price, Rozumilowicz and Verhulst, 2003; Katz, 2004; Curran, 2005; 2011; Open Society Institute, 2005; Feintuck and Varney, 2006; Hitchens, 2006; Ward, 2008a; Goldberg, Sutter and Walden, 2009). The focus has mainly been on the audiovisual sector with surveys of broadcasting regulation. Research has shown that most European countries share a common model defined by a dual system of public and private broadcasting

(Humphreys, 1996; Papathanassopoulos, 2002; Iosifidis, 2007; 2010). At the same time, from the mid-1980s onwards, mixed patterns combining market liberalisation, regulation and deregulation in various ways have also gradually emerged. New technologies, the resulting market restructuring and changes brought in media production and consumption have prompted academics to rethink assumptions about the regulatory models in use. On the other hand, the press, traditionally recognised as a bulwark of democracy, has not been heavily regulated. For the most part, it has been subject to generally applicable laws relating to such matters as defamation, privacy, the protection of public security and public order amongst others.

A privileged area of academic study has been the regulation of media markets at the EU level. Many authors have examined the evolution of EU media policy, giving particular weight to the Television without Frontiers Directive,¹ its recent review leading to the adoption of the Audiovisual Media Services Directive² and the application of EU competition rules to the media sector (Collins, 1994; Drijber, 1999; Ward, 2002, 2008b; Craufurd Smith, 2004, 2006; Harcourt, 2004; Picard, 2006; Holoubek, Damjanovic and Trainer, 2007; Sarikakis, 2007; Psychogiopoulou, 2008; Pauwels, Kalimo, Donders and Van Rompuy, 2009). A significant number of studies have further concentrated on the interrelationship between state and EU media regulation (Levy, 1999; Harcourt, 2002). David Levy's work in particular has pointed to the wide diversity of state policy styles that persist despite EU harmonisation in the field of broadcasting. A similar point has been made by Denis McQuail (McQuail, 2007). Conversely, some authors have argued that policy convergence is occurring across the EU Member States but that it is primarily influenced by non-EU factors, namely technological change and globalisation (Humphreys, 1996).

While drawing heavily from the previously published academic works, this volume is innovative both in the approach it adopts, and its thematic and analytical focus. It conceptualises media policy as an intrinsically political and intensely contested process, which simultaneously involves national and supranational dynamics. In this regard, it departs from narrow single-discipline approaches that take a perspective of the media as a market or are confined to the legal and normative rules regulating it. Instead, it employs an interdisciplinary approach that places legal rules and market regulation in their socio-political context. The wide range of the countries selected allows us to consider the diversity of contemporary European media markets, regulatory frameworks, institutional structures and policy strategies. Whilst some of them have been analysed in a bulk of existing literature, others have so far remained at the margins of academic attention. It is important therefore to note that rather than building on an all-encompassing concept of media policy that is used (or ought to be used) in different country contexts, this book deals with and aspires to depict the variety of media policies practised in different country settings. It is thus mainly concerned with understanding and explaining the various ways in which media policy is conceived, negotiated and applied in the selected group of European countries. This, in fact, explains the choice of the plural form ‘understanding media policies’ in the book’s title rather than ‘understanding media policy’.

Another innovative aspect of the present volume, which is also closely related to the choice of the plural term ‘media policies’ mentioned above, is that it combines an analysis of the traditional print and audiovisual media with the study of new online media services. In most of the countries under study, distinct policies have been formulated and applied for the printed press and broadcasting with no particular efforts deployed to coordinate policy action for the media sector in its entirety. The

press has, by and large, remained less regulated, contrasting the regulatory pressure faced by the broadcasting media. Still, significant differences between European countries can be noted in terms of regulatory approach and the breadth of regulatory intervention. Policies have tended to be less or more interventionist, due amongst others to different national cultural, political and regulatory traditions. In reality then, various media policy regimes have existed in Europe (Siune; 1998, Hallin and Mancini, 2004; Terzis, 2007b), highlighting the absence of a single (or widely-shared) European media regulatory model.

The digital revolution, which has substantially altered the media environment, multiplying the communication and information channels available, has brought new elements of regulatory complexity. Both licensed and unlicensed mainstream media have sought to make use of the new technologies in order to diversify their outlets and reach a wider audience. An unparalleled increase in the provision of information has further derived from the launch of innovative, interactive communication services provided online, with citizens directly engaging in content production and/or dissemination activity. One of the principal questions policy-makers are presently compelled to cope with is whether or not the long-established and so far largely diverse regulatory approaches - both across European countries and with regard to different media - are important for and relevant to the new digital environment. Is there a growing need for more inclusive policies addressing the media sector as a whole and if yes, how should the various media services be regulated and by whom? Our book examines the implications of the new information services for media policy-making and explores policy patterns and attitudes in their regard.

2. The shifting nature and scope of media policy in conditions of technological convergence

In recent years, media policy has become an increasingly elusive policy field to demarcate. To a large extent, this stems from processes of technological convergence that blur market boundaries between previously distinct industry sectors due to technological innovation, and consequently between the services these sectors provide and the platforms they use to deliver them. Initially conceived as a process fostering the ability of different network platforms to carry similar kinds of services and the transformation of different consumer devices such as telephone, television and computers into products that are alike (European Commission, 1997:1), convergence has proved to be a more complex and sophisticated venture (Marsden and Verhulst, 1999; Ariño and Llorens, 2008). Its effects have been multi-faceted and multi-dimensional, extending to market convergence and the convergence of platforms, devices and services. This has raised serious questions about the delineation of the domain of contemporary media policy, and in particular the extent to which it can be treated separately from the field of communications policy more broadly.

Communications policy deals with a wide range of issues concerned with the structure and the organisation of communications systems (Papathanassopoulos and Negrine, 2010: 3). For decades, media policy has been mainly conceived as the policy that aims to shape the conduct of the mass media, essentially press and broadcasting, as media of 'public communication'. Often used interchangeably with the term 'mass communication policy', media policy has been dissociated in academic literature and policy practice from telecommunications policy. The latter has been traditionally understood to be concerned with telecommunication networks as carriers of 'private communication' between individuals. State intervention in these two policy areas has

displayed different characteristics and variation in the degree of intensity. It has been driven by different policy rationales and has sought to attain diverse policy objectives, though in both cases, in the pursuit of the ‘public interest’, a notion subject to varying interpretations (Feintuck and Varney, 2006; Papathanassopoulos and Negrine, 2010: 7-9).

Technological innovation has brought together previously distinct industry sectors, inducing operators to enter each other’s territory. Digitalisation, in particular, has yielded a series of market developments that disrupted the distinction that was commonly drawn between a telecommunications and a mass media policy perspective. Changes in operators’ market strategies resulted in the blurring of markets, and increased competition has gone hand in hand with the development of innovative, ‘user-generated’ services. These services have triggered substantial changes in communication styles and models, blending ‘public’ and ‘private’ forms of communication.

In such a context, the technological field within which media policy operates has broadened, if not altered. The classic inclination to restrict media policy to the mass media and the processes through which communication takes place from one to many has been put to the test. Many scholars have argued for policy convergence and the dismantling of the traditional policy separation between the media and the telecommunications industry (Van Cuilenburg and Slaa, 1993; Van Cuilenburg and McQuail, 2003: 181). Others have claimed that the field of media policy should be considered co-extant with that of information policy, the latter being defined as all laws and regulations pertaining to information creation, processing, flows and use (Braman, 2004; 2010). The picture has been further complicated by the gradual expansion of targeted action to foster economic, social and cultural change by

focusing on the role of information in the economy and society. Despite the absence of a single theoretical framework for reaching a good understanding of what the term ‘information society’ actually stands for (Garnham, 2005: 287), the media, together with information and communication technologies, were seen as key drivers of growth and social development.

The delineation of the field of contemporary media policy is of pragmatic importance for policy-makers, legislators and regulators who need to be aware of its limits. It is also an important legal, and in fact, constitutional issue, given the implications it entails for the protection of freedom of expression and other fundamental freedoms and rights, such as the right to information. Media policy has traditionally been founded on safeguarding free speech and the freedom to hold, receive and impart information and ideas. Embodying central democratic and social values, free speech and the right to information have been explicitly protected in Western democracies by means of domestic constitutional law and/or parliamentary acts, and have served to shape media policy discourse. Identifying the issue area of contemporary media policy is thus closely linked to protecting fundamental rights and civil freedoms.

Despite the variation in analysis and points of theoretical departure, it is generally agreed that media policy is concerned with the conduct of media systems (Freedman, 2008: 10). In dealing with the organisation of media markets and media performance, media policy favours specific market configurations and seeks to advance particular types of media behaviour. This book is interested in the media as agents of information and debate that facilitate public discourse in a functioning democracy. From this perspective, media policy is understood as the whole range of policy approaches, strategies and tools that are employed to shape the media in a way

that promotes their role as facilitators and carriers of public discourse. Hence, the focus is more on the media's role of mediating the public, including on how the media's role as such is transformed by new technological advancements. It is less concerned with other functions of the media, such as entertainment or private communication (important as these may be). The country-based studies are underpinned by a common interest in the *constitutive* role of the media, namely that of structurally shaping the society by enabling the public to engage in its production and reproduction (Braman, 2004: 179-181; 2010: 41-42). Accordingly, they are not restricted to the examination of those policy areas that concern what is commonly known as the 'traditional' mass media. They also extend to the policies that target new forms of public communication, including the Internet as a medium of public communication, in so far as these have a direct or indirect bearing on societal discourse and participatory decision-making processes. Moreover, highly debated topics, not typically associated to media policy (i.e. broadband access, net neutrality, intellectual rights protection, etc), are of interest to the extent that they condition and/or transform the ability of the media to act as platforms of public discourse.

3. Media policy and media regulation

It might be useful at this point to draw a distinction between the two terms that are often used interchangeably in media policy studies: media policy and regulation. Des Freedman makes an important point in this regard: 'if media policy suggests the broader field where a variety of ideas and assumptions about desirable structure and behaviour circulate, then regulation points to the specific institutional mechanisms for realising these aims' (Freedman, 2008: 13). In this sense, 'policy' precedes 'regulation'. Whereas media policy refers to the development of objectives to shape

the structure and behaviour of the media, media regulation ‘focuses on the operation of specific, often legally binding, tools that are deployed on the media to achieve established policy goals’ (Freedman, 2008: 14).

Two main models of regulatory intervention can generally be discerned in the media sector: structural regulation and content regulation (Barendt, 1997/1998; Hitchens, 2006). Structural regulation normally addresses the architecture of the media landscape. It typically builds on competition rules, which are aimed at ensuring a competitive media market and may sometimes be enriched with a media-specific component. It also draws on media ownership norms that define the number of media outlets that any natural or legal person may own, whether from a mono-media or cross-media perspective, as well as permissible participation in media enterprises. Media ownership rules can also prevent the integration of the media industry with other sectors of the economy and preclude particular organisations, such as political parties or religious associations, from owning key media outlets. Licensing rules, commonly concerned with traditional broadcasting media, also affect the structure of the market, as they determine the type and number of mainstream operators available. The configuration of the media market is further conditioned by access rules, like ‘must carry’ obligations generally aimed at ensuring that control of key networks, services or facilities does not prevent market access for alternative media operators and services. The regulatory picture is complemented by various support measures, such as licence fees, direct grants, preferential tax regimes or benefits in kind, designed to foster the development of particular media market segments. Market entry can also be encouraged by measures fostering the development of high capacity transmission networks and spectrum management policies.

In the field of broadcasting, the European ‘dual’ regulatory model is a clear example of structural regulation. Despite pressures for radio and television to be left to ideologically and politically ‘neutral’ market forces, broadcasting has not been entirely liberalised. Instead, it is still characterised by a duality of public and private operators (Ward, 2002). Admittedly, the dismantling of state monopolies from the late 1980s onwards sought to counteract government influence over broadcasting and promote content diversification, besides being responsive to economic and industrial considerations. Nonetheless, consensus has also built around the idea that PSB, funded exclusively or mainly through state resources, would provide a range and quality of media services that the market alone would not achieve. PSB was thus considered to be an appropriate means to minimise the programming limitations arising from commercial modes of media financing (i.e. advertising) and cater for fair, balanced and impartial reporting besides other objectives in the public interest. Structural regulation for the state’s preservation in the broadcasting market has been supplemented by content requirements imposed on public service media to shape the content of their services. These have sought to foster public discourse, promote social integration and the national culture, and represent minority tastes and interests amongst others.

States have also been favourably disposed to the adoption of rules targeting the content of commercial audiovisual media, whereas for the most part and mainly for free speech reasons, they have refrained from regulating the press. Such a broad tendency that recognises the necessity for radio and television to be subject to greater state-imposed constraints in comparison with the press has been partially justified by the greater power that these arguably exert over citizens. Content requirements have been widely imposed either in order to preclude material that is considered to be

harmful or undesirable or with a view to enhancing the range of voices and opinions expressed through the media. They have ranged from measures prescribing respect for the personality, honour, private and family life of the persons depicted in programmes to measures intended to increase content diversity and plurality of information, including provisions concerning political advertising and access to airtime for political parties and politicians, especially during election campaigns. Other rules and regulations have dealt with minors' protection from unsuitable content, the accessibility of programmes for people with visual or hearing disability, sponsorship, audiovisual commercial communications and teleshopping. Transmission quotas and investment obligations in specific content genres have also been imposed, whilst subsidies and other financial and tax incentives have been granted to promote particular types of programmes.

Media regulation also involves forms of public intervention, which are not necessarily media specific but which produce effects for media performance (Braman, 2004: 164; 2010: 30-31). Legislation regarding access to public documents is probably the most common example of 'hidden' or 'covert' media policy. Acts and statutes about access to public documents and information are generally not specifically concerned with the media. And yet, they constitute one of the principal pieces of legislative intervention that may influence their workings. On the one hand, they can facilitate the gathering of information by creating structured channels for the media to obtain information from public authorities. On the other hand, they can substantially constrain media reporting: grounds for withholding access to information are commonly incorporated in such acts in order to protect national security, public safety, international relations, military intelligence, business secrets, privacy, etc.

At the same time, it is essential to note that media policy is broader than media regulation. Whereas regulation primarily refers to the adoption of legal rules and norms to govern the media, the concept of media policy encompasses the full array of actors involved in and the processes leading to the adoption of specific policy decisions and instruments. In Des Freedman's formulation, media policy refers to the 'formal as well as informal strategies, underpinned by specific interests, values and goals that shape the emergence of mechanisms designed to structure the direction of and behaviour in particular media environments' (Freedman, 2008: 17). In other words, media policy comprises as much the formal mechanisms of policy formulation (of which state regulatory instruments are a part) as the informal ones (such as lobbying and advocacy by different interest groups). Informal policy-making is more difficult to discern, precisely because of its non-formal character. It can nevertheless be highly influential. The frequent unreported conversations between politicians and corporate lobbyists are a clear case of informal policy-making where consensus is built and agreements are reached outside formal decision-making structures, with no consideration of democratic procedural safeguards.

Media policy is also about the implementation, monitoring and enforcement of the legal rules adopted. Once the direction, objectives and means of media policy have been decided and concretely defined, the process continues with the actual efforts deployed to attain the goals identified and make use of the policy instruments chosen for policy to work. This is a crucial stage in the policy chain, as it very much conditions whether policies can make a difference and deliver the desired results. Bad policies can yield bad results but good policies can also lead to failure if no steps are taken to ensure effective follow-up.

4. Making media policy

In recent years, the term ‘global media policy’ (Castells, 1996; Castells and Cardoso, 2006; Chakravarthy and Sarikakis, 2006; Hamelink, 1995; Ó Siochrú, Girard and Mahan, 2002; Raboy, 2002; Raboy and Padovani, 2010; Iosifidis, 2011) has become increasingly used to denote the plurality of processes where actors with different degrees of power and autonomy, intervene in different policy venues to shape the media market and media conduct. Although the role of national governments remains crucial, it has widely been acknowledged that media policy-making is no longer confined to the state. International and regional organisations, other supranational bodies and entities, the media industry itself and the civil society operating across states have gradually become important actors in media policy formation.

The variety of stakeholders that play a role in defining the values, norms and tools of media policy has led others to suggest a change in terminology from ‘media policy’ to ‘media governance’ (Puppis, 2008; 2010; Latzer, 2007; Hamelink and Nordenstreng, 2007; McQuail, 2007). Besides the recognition of the fact that the policies concerning the media are formulated at different levels – the national and sub-national, the supranational and the international – the concept of governance has also been used to convey the fact that the state might no longer be the decisive player. The state makes media policy alongside a variety of other public, semi-public and private actors. This implies a network of control and exercise of power, in which the state might have lost the pre-eminence it previously enjoyed.

Media governance has also been used to reflect the variety of formal and informal, visible and invisible, express and latent media policy mechanisms (Braman, 2004:164; 2010: 30-31) deployed to govern the media. For Denis McQuail, media governance ‘refers not only to formal and binding rules, but also to numerous

informal mechanisms, internal and external to the media, by which they are “steered” towards multiple (and often inconsistent) objectives’ (McQuail, 2005: 234). Understood as a term that is broader than regulation both spatially and instrumentally, Des Freedman observes that ‘media governance refers to the sum total of mechanisms, both formal and informal, national and supranational, centralised and dispersed that aim to organise media systems’ (Freedman, 2008: 14).

Media policy-making has no doubt progressively become an increasingly complex and multi-layered process. Not only are the rules being modified due to the blurring of boundaries between distinct policy sectors, but the way in which the rules are devised is also being radically transformed. The number of *actors* that participate in the configuration of media policies has increased impressively. Both state and non-state actors contribute different understandings and knowledge, through their interaction, to the framing of the media policy agenda and the shaping of the principles and rules that govern the media sector (Feintuck and Varney, 2006: 201). Next to governmental bodies and state ministries, independent regulatory agencies, private corporations, media and journalists’ associations, trade unions, standard-setting entities, civil society organisations working in the field of human rights and media freedom, but also individuals with an interest in the areas and topics dealt with (i.e. media professionals, scholars and researchers) seek to leave their imprint on the media policy discourse. Competing values represented by different policy actors become subject to negotiation, re-negotiation, balancing and often conflict at the points of institutional interaction.

Clearly, certain policy participants possess resources that substantially increase and strengthen their ability to exercise leverage over policy formation. Private corporate interests, in particular, can exert an overwhelming influence on

policy decisions. First of all, they typically enjoy financial and expert resources, which enable them to pursue their interests through government. Scientific evidence has progressively become a prerequisite for media policy development and public officials often rely on the media for the provision of statistics and data, given the lack of resources, time and expertise to produce or compile the information themselves. Major media groups and operators are able to provide such material and data, and formulate policy options and scenarios on their basis. Equally important is the ability of the media to affect the climate of policy debate through their own reporting on major media policy reforms. Media organisations are often keen to see the enactment of particular laws or the undertaking of particular deregulatory action. The way of reporting on such issues can constrain state authorities to take (or refrain from taking) action. Fear of unfavourable coverage and electoral politics can also compel authorities to accept the media's demands.

Conversely, most civil society initiatives do not enjoy the same capacity to influence the government, even if channels to consult with and engage citizens in policy formation are often created in order to enhance the quality and legitimacy of the policies conducted. Civil society movements are often limited by lack of funds or problems of sustainability and representativeness. There are indeed many examples of public consultations that were launched only for the citizens to discover that their efforts to provide feedback and participate in the policy-making process were ignored or had no influence on the decisions reached.³ Undoubtedly, institutional arrangements for media policy-making can favour structured and competitive debate among a variety of policy participants but also be built on uneven power relations that eventually allow small decision-making elites to determine the policy course to take.

In addition to the increase in the number of policy participants, the *venues* where media policies are formed have also significantly grown. State-based institutional arrangements that may be more or less centralised have been supplemented by supra-national settings that create a new set of both pressures and opportunities for the configuration of national media policies. At the international level, the International Telecommunications Union, the World Trade Organisation, the United Nations Educational, Scientific and Cultural Organisation, and the Organisation for Economic Cooperation and Development increasingly engage with and variably transform the institutional dynamics for the formulation of media policies. In Europe, both the EU and the Council of Europe (CoE) play an important role in the field of media regulation. Although the EU is not granted specific powers to regulate the media, it has extensive powers to facilitate cross-border trade in media goods and services and also applies its general anti-trust, merger and state aid control rules to the media industry. Various CoE bodies, in turn, engage in standard setting, whereas the European Court of Human Rights (ECtHR) ensures respect for fundamental human rights, including freedom of expression, as enshrined in the European Convention on Human Rights. The latter offers media owners and professionals, including editors and journalists, significant guarantees against state censorship and control. Notably, it is also important to the growing number of civil society organisations, companies and private individuals who take advantage of modern communications systems, such as the Internet, to publish information and opinions.

The judiciary, both at the national and the European levels, has assumed a significant role in media policy-making, although courts are not traditionally regarded as ‘actors’ of media policy formation. Judges are routinely called upon to enforce

legal norms and provisions. However, in the blurred boundaries between applying and interpreting the law, judicial arguments can have a substantial influence in supporting or challenging decisions made by policy-makers, as well as in promoting or conversely undermining the implementation and enforcement of particular laws. For instance, in the case of Austria, the jurisprudence of the ECtHR upholding the freedom of expression in the media was catalytic in dismantling the state monopoly in broadcasting.⁴ The case law of the Court of Justice of the European Union similarly contributed to the abolishment of the state monopoly in radio and TV broadcasting in Greece.⁵ At the national level, courts are instrumental actors in the implementation of domestic law, as well as EU law and European human rights norms. In applying the rules, they exert a significant influence on the final media policy outcome.

The proliferation of actors and venues for media policy-making has a direct impact on the actual *processes* through which national media policies are shaped. State regulation exists alongside the processes of self- and co-regulation (Black, 1996; 2001; Palzer, 2002; McGonagle, 2002; Hans Bredow Institut and Institute of European Media Law, 2006; Feintuck and Varney, 2006; Tambini, Leonardo and Marsden, 2008). One of the principal reasons favouring the adoption of self- and co-regulatory processes is that the industry may be in the best position to control or contribute to the control of its activities (Feintuck and Varney, 2006: 241). Another reason is that the costs of regulation, which would otherwise be borne by the state, are shifted (partly or entirely) to the industry itself (Baldwin and Cave, 1999: 128).

Self-regulation has been defined as the ‘large number of practices, common rules, codes of conduct and voluntary agreements which economic actors, social players, NGOs and organised groups establish themselves on a voluntary basis in order to regulate and organise their activities’ (European Commission, 2002). A broad

concept covering a wide range of institutional arrangements (Ogus, 1992), self-regulation is based on the assumption that ‘in particular contexts it will be more efficacious for the regulated firms to take on some or all of the legislative, executive, and judicial regulatory functions (Ayers and Braithwaite, 1992: 103). Ayres and Braithwaite explain that firms can devise their own regulatory rules as self-regulating legislators; monitor themselves for non-compliance as self-regulating executives; and punish and correct cases of non-compliance as self-regulating judges (Ayers and Braithwaite, 1992: 103).

Self-regulation may offer a number of advantages, particularly from the perspective of cost, flexibility and rapidity of regulatory response. At the same time however, there may be important difficulties with its application in the media sector. First, the state has little control over the values that the self-regulatory regime seeks to pursue (Feintuck and Varney, 2006: 243). This is of crucial importance when one bears in mind the constitutional concerns underpinning media policy (i.e. freedom of expression and freedom of information) and the need to keep them focal. Another difficulty arguably lies in the effectiveness of the sanctions provided by self-regulation. In the absence of a credible threat of government intervention in the case of compliance failures, it may be queried whether self-regulation can deliver genuine self-enforcement.

This might explain states’ interest and increasing reliance on co-regulatory (or so-called ‘regulated self-regulatory’) processes. Co-regulation ‘is usually taken to mean industry-association self-regulation with some oversight and/or ratification by government’ (Ayers and Braithwaite, 1992: 102). It is based on a system of mixed regulatory responsibility, shared by the state and non-state organs. It is neither ‘pure’ self-regulation, nor traditional ‘command-and-control’ state regulation. Rather, it rests

on a combination of state and industry regulation, which may take a variety of forms, in the pursuit of public policy interests, extending to rule-making, the implementation of rules, their enforcement or all of the above.⁶

Mention could finally be made of ‘individualised self-regulation’. Contrary to processes of policy formulation that concern all media organisations in a given segment of the market, individualised self-regulation denotes the norms that are developed at the level of single media organisations. Individual companies often set out rules to observe in their daily activity either in the form of codes of conduct or editorial guidelines, and create internal mechanisms for their implementation and enforcement. These can be the result of the initiative of sole media operators or take place within the context of self-regulation, co-regulation or statutory regulation. Codes of conduct that are adopted by the industry as a collective form of self-regulation may require media operators to individually design their own editorial guidelines. Moreover, public service broadcasters, whose public service remit is commonly defined at state level, can be mandated to prepare codes of conduct for their everyday editorial practice.

5. The political dynamics of media policy

A significant number of studies have shown that national media policies manifest a great deal of variation, instead of exhibiting substantial convergence in accordance with particular neo-liberal, economic, technological or ideological imperatives. National policies pertaining to PSB for instance, which was consonant with broader social market ideas pertinent to economic development that prevailed after the war in Europe, significantly varied across states. Similarly, while deregulation pressures have been exerted across Europe, European states have reacted in markedly different

ways, adopting policy strategies that ranged from embracing radical marketisation (i.e. France, Italy) to opting for more constrained forms of deregulation, like Germany for example (Humphreys 1996: 300).

Not only do broader economic pressures and technological imperatives elicit variable national policies across states, but they also prompt different responses from political parties and governments within each country. For instance, while the Labour government in the UK in the 1990s and 2000s assumed a clear deregulatory stance and shifted towards a more friendly accommodation of large media corporations' interests, at the same time, its policy substantially diverged from that of the conservative government. It distinctly did so by simultaneously affirming Labour's commitment to PSB with an expansive notion of public interest, even as it pushed the BBC to operate in a more competitive and efficient manner as if it were in the private sector (Hesmondhalgh, 2005: 102). In sum, broader economic pressures and technological advancements do not directly shape national media policies. Instead, they define the context within which national governments, dominant political forces and various non-state actors (re)define their preferences and interests, leading to the adoption of specific media policy approaches, tactics and tools among a number of alternatives.

Inquiring into national variations of media systems, a number of studies attribute them to the political and economic structures of states. The study by Peter Humphreys specifically examined the extent to which state power is weak and diffused as opposed to strong and concentrated, and its consequences for the degree to which media pluralism is guaranteed (Humphreys, 1996: 11). The diffusion as opposed to the concentration of state power was assessed in reference to structural characteristics such as the extent to which a political system leads to consensual as

opposed to majoritarian governments.⁷ The latter are arguably likely to be more executive-dominated and prone to greater interference with publicly-owned media.

Some of the above features of political and state power were later incorporated in the decisive study by Daniel C. Hallin and Paolo Mancini that explores comparatively the factors and conditions that have given rise to different media systems across Europe and in North America (Hallin and Mancini, 2004). In comparing the structure of media markets, the relations between the media and political parties, the nature and degree of journalistic professionalism and the role of state intervention in the media in 18 West European and North American countries, the authors argue that differences stem from the distinct historical trajectories of national political institutions. Particularly important in this regard are the distinct relations between the state with societal interests and civil society (pluralist, corporatist), the nature of democracy (liberal or welfare state), as well as the nature of government and the extent to which it is majoritarian or consensual.

The following country-case chapters analyse the complex array of policy approaches, institutional practices and regulatory instruments that media policy encompasses across different countries. They are based on the assumption that the legal norms, regulatory instruments and other policy measures that are adopted (or not adopted) at the national level to determine the structure and behaviour of the media cannot be attributed to structural features of the national political or economic systems alone. Instead, they are mainly products of specific policy processes taking place in distinct institutional settings. No doubt, media policy is conditioned by politics, economics, culture and technology. It is guided by a series of political, social and economic goals subject to interpretation and re-interpretation and therefore it constitutes an area of continuous controversy. As expounded however in a rapidly

increasing literature on the subject, it is primarily a fundamentally political and conflict-ridden process. Political actors and interest groups with distinct and often competing interests vie to impose particular values and priorities on how the media should be structured and should operate. In their attempt to influence policy, they then respond to and act within particular structural contexts, defined by technological, economic, political and societal parameters.

As aptly observed by Sabatier, ‘any theory of the manner in which governmental policies get formulated and implemented ... requires an understanding of the behaviour of major types of governmental institutions (legislatures, courts, administrative agencies, chief executives), as well as the behaviour of interest groups, the general public, and the media (Sabatier, 1991: 147). The analyses that the following country-case chapters present shed light to the engagement of a greater number of state and non-state actors and institutions in media policy-making. They also depict the complex interaction between the economic, technological, socio-political and institutional factors that affect policy. The case studies expose the variety of rationales guiding policy discourse and examine the regulatory, co-regulatory and self-regulatory practices established to govern the media in each country. Regulatory action and policy measures are placed in the domestic socio-political, economic and institutional context. In so doing, the analyses exemplify the characteristics and peculiarities of media policy and policy-making in the respective countries. At the same time however, they also pay attention to the influence of external pressures affecting policy. The action of the EU and the CoE, in particular, receive particular attention in this respect.

Each country chapter follows a similar structure. The first substantive section of each chapter provides a succinct overview of the objectives of media policy in the

country reviewed, the actors participating in the formation and conduct of media policy and the principal regulatory instruments used to govern the media. The second substantive section of each chapter examines the nature and scope of media policy in the respective country, and evaluates its configuration (or re-configuration) in the increasingly changing and converging media environment, with due attention to the institutional dynamics and power relations that characterise it. All country chapters seek to ensure comprehensive coverage across the press, broadcasting and Internet-based media services. Whilst some policy areas might seem less thoroughly treated as they might have been, the analysis focuses on those policy issues that fall within the scope of media policy in the national context. The country chapters thus deal with the policy areas that the media policies of the countries under study are deemed to comprise, investigating whether there has been a shift in policy interest and attention. They do not deal with all the issue areas that can be viewed as forming part of media policy more broadly. After all, as Braman appositely observes, how a policy issue area is identified is political, determining ‘who participates in decision-making; the rhetorical frames, operational definitions and value hierarchies involved in decision-making; the analytical techniques and modes of argument used; and the resources considered pertinent’ (Braman, 2010:23).

Chapter 1 by Bart Van Besien and Pierre-François Docquir starts with a detailed account of the Belgian media policy. The analysis pays due attention to the impact that the institutional complexity ensuing the federalisation of the country and the differences in language, culture and economy between Belgium’s two main communities - the Flemish Community and the French Community - have had on media policy and regulation amongst others. Chapter 2 by Ruzha Smilova, Daniel Smilov and Georgi Ganev discusses media policy in post-communist Bulgaria and its

configuration through complex processes of transition from a communist society to liberal democracy, market economy, EU membership and political party evolution. Developed in a climate of sharp political and technological controversies, media policy in Bulgaria has been strongly affected by the profound changes that have characterised the political landscape in the country. Chapter 3 by Paško Bilić and Nada Švob-Đokić illustrates the strong influence of the systemic changes that have altered the character and functioning of the Croatian media under a liberal capitalism ideology and the effects of the global media market and EU policies on media policy-making. The state, however, is considered to still play a dominant role in media policy formation, despite the difficulties it encounters in balancing public, private, local and European policy interests.

Chapter 4 by Henrik Søndergaard and Rasmus Helles offers an in-depth analysis of the Danish media policy. Largely affected by the political culture of the Scandinavian welfare state, the confined use of the Danish language and the limited size of the domestic media market, the Danish media policy has built on a comprehensive media support system, designed to promote media pluralism and diversity. This system has lately come under considerable strain due to growing convergence among what were previously distinct media sectors. Chapter 5 by Urmas Loit and Halliki Harro-Loit provides a thorough review of the Estonian media policy and the liberal market ideology that characterises it. Despite the strong protection provided for the freedom of the press, the Estonian media policy, the authors note, shows inconsistent patterns of development and lacks analysis and balancing of value dilemmas, in particular as regards the constraints that the small size of the market presents for journalists' professional autonomy. According to Heikki Kuutti, Epp Lauk, Pasi Nevalainen and Riitta Sokka, ongoing structural changes in the Finnish

media and the ‘mediatisation’ of politics have brought the issue of responsible use of freedom of expression and media freedom centre-stage. Chapter 6 depicts a more directive than restrictive Finnish media policy, which favours limiting statutory regulation and strengthening media self-regulation and public control.

Chapter 7 by Sebastian Müller and Christoph Gusy discusses the main features of the German media policy, taking due account of the specificities of the institutional setting in Germany. While the judiciary plays an important role in establishing the confines of media policy-making, media policy and regulation is the product of complex institutional processes, involving a wide range of actors. Their interaction often causes tension over the policy objectives to be pursued and the regulatory instruments to be used, especially in the converged media environment. Chapter 8 by Evangelia Psychogiopoulou, Anna Kandyla and Dia Anagnostou focuses on how the power relations between the increasingly empowered economic elites that own the media in Greece and the political world are reflected in the various legal and policy norms that have been adopted (or not adopted) by successive governments to regulate the media. The analysis shows that the Greek media policy is mainly founded on the basis of ad hoc and short-term government interventions that aim to influence the media for their benefit, rather than a coherent set of policy actions and tools that constitute a ‘media policy’ proper. Chapter 9 by Federica Casarosa is about the Italian media policy. The analysis depicts an ongoing process of policy fine-tuning as a response to technological developments and European rules, yet identifies a number of issues that remain unresolved. The low levels of media independence from the political power figure prominently among them.

Chapter 10 by Alina Mungiu-Pippidi and Cristian Ghinea addresses the Romanian media policy. The analysis discloses how national governments, media

regulators, foreign investors, and European institutions have all contributed to the liberalisation of the domestic media market and portrays the ways in which media outlets have been captured by vested interests seeking political influence. The rapid rise of the Internet and the proliferation of online information services might bring a useful answer in this regard. Chapter 11 by Andrej Školka and Mária Hong looks at the Slovakian media policy. Historically, Slovakia lacked institutional experience with free media. This absence has contributed to a spread of ad hoc media policies and a persistent trend towards keeping public service media indirectly dependent on the government. Spain, as explained in chapter 12 by Susana de la Sierra, Emilio Guichot, Marina Mantini and Irene Sobrino, is a country where no clear media policy can be identified. Media regulation is the result of various inputs: the EU, the willingness of the political parties in power to achieve particular goals, and the decentralised territorial structure of the country implying a great array of policy participants pursuing disparate interests. Regulation has so far followed specific demands at specific moments. This renders its reappraisal in the light of technological changes an extremely complicated venture.

In chapter 13 Dilek Kurban and Esra Elmas engage in a discussion of the Turkish media policy. Since its foundation, the Turkish media has been dependent on the state and has been used as a tool by civilian governments and military regimes alike for consolidating their power. Despite the economic liberalisation of the early 1990s and the EU accession process, much remains to be done in order to change the authoritarian mindset prevalent within the state, the society and the media themselves. Media policy in the UK, as expounded on by Rachael Craufurd Smith and Yolande Stolte in chapter 14, has sought to promote a series of citizen-oriented objectives, like media independence from government influence, media pluralism and support for

PSB, alongside economic and industrial goals. It has increasingly been influenced by EU law, human rights safeguards and technological developments, and has been marked by the ideology of the political parties in power and their receptiveness by key interest groups. In the converged media environment, a number of fundamental issues relating to the nature and intensity of media regulation are raised, creating new challenges for policy-makers.

The concluding chapter by Katharine Sarikakis seeks to explain the similarities and differences of media policy approaches within Europe. It discusses the complexities behind the design of contemporary media policies and advocates a citizenship-centred analytical approach for media policy development.

¹ Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, OJ L 298, 17/10/1989, p. 23, as amended by Directive 97/36/EC (OJ L 202, 30/7/1997), p. 60.

² Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, OJ L 332, 18/12/2007, p. 27.

³ To illustrate, in 2003, the US Federal Communications Commission refused to take seriously 23 million submissions, whose vast majority opposed the loosening of ownership rules on the basis that the comments received were biased, lacked expertise and were simplistic. See Freedman, 2008: 92 and 102-103.

⁴ ECtHR, *Informationsverein Lentia and Others v Austria* (nos 13914/88; 15041/89; 15717/89; 15779/89; 17207/90), 24/11/1993.

⁵ Court of Justice of the European Union, case C-260/89, *Elliniki Radiophonia Tileorassi*, ECR [1991] 2925.

⁶ Existing studies reveal various dimensions of the state and non-state component of co-regulation. In their seminal study on co-regulation measures in the media sector, the Hans Bredow Institut and the Institute of European Media Law identify a number of criteria in order to determine the co-operative systems leading to regulation that can be regarded as co-regulation. See in detail Hans Bredow Institut and Institute of European Media Law, 2006: 35.

⁷ The degree of diffusion or concentration of state power was also assessed in reference to the liberal, statist or corporatist structure of representation of the main social interests. Further affecting the dispersion of state power are the territorial structures of each state that can be unitary, decentralised or federal.