

# COMPARATIVE MEDIA POLICY, REGULATION AND GOVERNANCE IN EUROPE

UNPACKING THE POLICY CYCLE

EDITED BY

LEEN D'HAENENS, HELENA SOUSA, JOSEF TRAPPEL



# Comparative Media Policy, Regulation and Governance in Europe



# Comparative Media Policy, Regulation and Governance in Europe Unpacking the Policy Cycle

Leen d'Haenens, Helena Sousa and Josef Trappel



**intellect** Bristol, UK / Chicago, USA

First published in the UK in 2018 by  
Intellect, The Mill, Parnall Road, Fishponds, Bristol, BS16 3JG, UK

First published in the USA in 2018 by  
Intellect, The University of Chicago Press, 1427 E. 60th Street,  
Chicago, IL 60637, USA

Copyright © 2018 Intellect Ltd.

All rights reserved. No part of this publication may be reproduced,  
stored in a retrieval system, or transmitted, in any form or by  
any means, electronic, mechanical, photocopying, recording, or  
otherwise, without written permission.

A catalogue record for this book is available from the  
British Library.

Cover designer: Aleksandra Szumlas, Holly Rose  
Copy-editor: MPS Technologies  
Production manager: Mareike Wehner  
Typesetting: Contentra Technologies

Print ISBN: 978-1-78320-886-9  
ePub ISBN: 978-1-78320-887-6  
ePDF ISBN: 978-1-78320-888-3

Printed and bound by Hobbs, UK

This is a peer-reviewed publication.

Supported by the Open Access Publication Fund  
of the University of Salzburg.

## Chapter 7

---

The Europeanization of the European Media: The Incremental  
Cultivation of the EU Media Policy

Stylios Papathanassopoulos



1 **T**his chapter argues that since the mid-1980s, the European Union (EU) has sought to  
2 initiate policies to ‘Europeanize’ the whole communication sector of its Member  
3 States. These policies have sought to Europeanize, i.e., harmonize as well as to protect  
4 the media sector and to make it competitive both in the internal European market and in the  
5 global market. Additionally, these policies have tried to protect European cultural identity  
6 from the ‘American challenge’. The EU, through an incremental policy process and ongoing  
7 revision, if not modernization, of its regulatory framework, has expanded its jurisdiction to  
8 most aspects of the communication landscape from TV advertising and programme quotas  
9 to production, distribution and training, from the definition of European works to cultural  
10 and linguistic diversity, from copyright protection to the protection of minors, from  
11 telecommunications to the convergence of the media and digital television. Therefore, this  
12 chapter aims to explore the extent to which the EU has been able to construct or give rise to  
13 a set of media policies that are European in scope and transnational in impact. It will discuss  
14 the *Audiovisual Media Services Directive*, as well as various interventions of the European  
15 Union in areas of media policy, such as media ownership, and measures to protect the  
16 European audio-visual landscape through the MEDIA programme.

### 19 **From European integration to EU communication**

---

21 Although, ‘Europeanization’ is a fashionable but contested concept (Olsen 2002: 923;  
22 Graziano and Vink 2007; Lenschow 2006), it can be understood as a complex process of  
23 political and policy change, i.e. of ‘transfer’, since it affects all EU Member States (Featherstone  
24 and Radaelli 2003). As Radaelli (2000: 26–27) notes ‘large-scale policy transfer is involved  
25 in the so-called *acquis communautaire*, the body of European legislation that candidate  
26 countries must accept before joining the Union’ (see also Bauer et al. 2007). This is because  
27 the dynamics of Europeanization can be ‘understood in terms of a limited set of ordinary  
28 processes of change, well known from other institutionalized systems of governance’ (Olsen  
29 2002: 923). In other words, Europeanization ‘is an incremental process re-orienting the  
30 direction and shape of politics to the degree that EC political and economic dynamics  
31 become part of the organizational logic of national politics and policy-making’ (Ladrech  
32 1994: 70).

Although a unified Europe at the policy level is still no more than a vision, the EU has succeeded in creating a hybrid model with which to deal with these processes. Although this is far from the European Union Federation to which the most passionate enthusiasts aspire, it is nevertheless more state-like than any other arena for international cooperation. EU Member States exhibit both similarities and crucial differences. Compared with other international organizations the Member States have similar economic and political systems, and since 2000 some of them even have a common currency. This makes it possible for the EU to work on the basis of common values, and to a certain extent, on common objectives. The latter creates what is a dominant feature of the EU's policy-making procedure, i.e. its emphasis on finding a balance between the opinions of interested parties in order to arrive at a consensus and then to a common approach against the international environment (Thatcher 2004). This is almost certainly what has happened in the media field: larger European countries created pressure for change and therefore for new policies; the negotiation process that followed brought forth a compromise which, in turn, became a Directive that was intended to be applied in all the EU countries. We can trace this process in respect of the EU's involvement in the communications field, initially in the television system, then telecommunications and finally in the information and communications technology and digitization. In effect, its competence now embraces the entire communication sector (see also Humphreys and Simpson 2008). These stages of involvement are examined in the next section.

The EU, through the European Commission, intervenes in all aspects of the communications sector and the European Commission considers itself the watchdog of the harmonized European communication landscape. This may, however, be an exaggeration. For example, a proposal in mid-2008 by the European Commission to create an EU Telecoms Authority with broad regulatory powers was not accepted by the Member States.

In the communications field, the aim of the then European Community to harmonize and eventually to 'Europeanize' the audio-visual sector began in 1983 with the publication of the 'Realities and tendencies of European television' (CEC 1983) report which led to a much discussed Green Paper (CEC 1984) and then to the well-known Directive (CEC 1989 and 1997a) for a *Television without Frontiers*, which became the *Audiovisual Media Services Directive* in 2007. The effort to 'Europeanize' the European communication sector now incorporates a much broader remit than simply television as seen in the publication of another Green Paper on *The Convergence of the Telecommunications, Media and Information Technology Sectors and the Implications for Regulation, towards an Information Society Approach* (CEC 1997c). The breadth of its claimed competence can also be seen in the EU's initiatives in the late 1990s and early 2000s, in the Public Service Broadcasting protocol in the 1997 Amsterdam Treaty and the *Communication on the state aid rules to public service broadcasting* in 2001, in the Chapter of Fundamental Rights of the EU in 2000 and in the new *Regulatory Framework For Electronic Communications* in 2002 (Harcourt 2008: 18–19).

One way or another, the EU has attempted since the mid-1980s to initiate a policy in Europe that will 'Europeanize' the whole communication sector of its Member States.

1 This policy with its strong elements of industrial policy and considerations has sought,  
 2 on the one hand, to harmonize and protect the media sector (e.g. *Television Without*  
 3 *Frontiers*), and, on the other hand, to make it competitive in the internal European market  
 4 and the global market too (liberalization of the telecommunications market, the MEDIA  
 5 programmes, eEurope, Info Action Plan). At another level, perhaps, it has also tried to  
 6 protect the European cultural identity from the ‘American challenge’. In other words, as  
 7 in other sectors of the economy and society, the EU has incrementally extended its reach  
 8 across most aspects of the communication landscape from TV advertising and programme  
 9 quotas to production, distribution and training, from pluralism to the broadcast of major  
 10 events, from the definition of European works to cultural and linguistic diversity, from  
 11 copyright protection and the protection of minors (Füg 2008), from telecommunications to  
 12 the convergence of the media and digital television.

13 This ‘EU Europeanization’ of the communication field is also a two-way process: one, ‘from  
 14 above’, orchestrated from Brussels, and one, from below, where organizations or citizens of  
 15 the Member States complain and object to the European Commission and particularly to  
 16 the European Court of Justice (ECJ) (Harcourt 2002, 2005), which has emerged as a key  
 17 factor in ensuring compliance with European laws and directives among the Member States  
 18 (Glenn 2004).

19 Thus, the extent to which the audio-visual has been implemented in the Member States  
 20 is a problematic area. The dissatisfaction of the European Commission, as well the ECJ,  
 21 with the mode of implementation led to substantial pressure for revisions to national media  
 22 laws (see also Harcourt 2002: 738). Certainly, the processes of Europeanization are complex,  
 23 sometimes contradictory and uneven phenomenon since the pace towards Europeanization  
 24 is different among the different Member States and that such differences often create  
 25 problems of implementation so giving rise to discrepancies. In spite of all this, one could  
 26 argue that there is a consistent, if not a strong, process of Europeanization in respect of  
 27 communications policies, and that European institutions (the European Commission,  
 28 European Parliament and European Court of Justice) have been shown themselves, either  
 29 directly or indirectly, to be major catalysts of Europeanization (Harcourt 2002: 749). One  
 30 should also note, however, that in certain circumstances the Commission has ‘offered a good  
 31 mechanism for national policy makers to shift blame and justify change’ (Thatcher 2004:  
 32 772). This is certainly true in regard to Central and Eastern European countries, which have  
 33 achieved an extensive legislative alignment to the EU legislation, including media, in order  
 34 to become candidates for the EU enlargement (see de Smaele 2007).

35  
 36

### 37 **From *Television without Frontiers* to *Audiovisual Media Services***

---

38

39 On 13 December 2005, the European Commission proposed the earlier announced revision  
 40 of the *Television without Frontiers* (TWF) Directive. A year later, in November 2006, the  
 41 European Parliament adopted the amendments proposed by the European Commission

(EC), and months later, in March 2007, the European Council adopted the revision of the new directive which from now on will be known as the *Audiovisual Media Services Directive* (AVMSD), codified in 2010. As noted, the original TWF Directive was adopted in 1989 and revised in 1997. Since its inception, it has sought to harmonize the European audio-visual landscape by setting up a series of minimal rules for audio-visual regulation (television advertising, audio-visual production) in the European Union, and to create common rules for a level-playing field for European TV channels. On the other hand, the AVMS Directive applies to both linear (or television broadcast service) and non-linear media (on-demand) services. Under the Directive both types of services are subject to some basic rules – such as consumer protection and encouraging European production – but the regulation of non-linear services is much lighter, and providers of non-linear services are likely to be able to be self-regulated. The notion of introducing a ‘non-linear’ category that would be subject to regulation was one of the most controversial points. Some Member States (typically France) or MEPs supported the principle of TV-like regulation largely extended to ‘non-linear’ services (in order to keep protecting consumers and the creative industry). On the other hand, some Member States (typically the United Kingdom) or MEPs feared that any regulation on these emerging services might inhibit market development (*Screen Digest*, January 2007). This is reminiscent of the divisions over quotas that were debated furiously in the 1990s during the negotiations over the TWF Directive. As always, a compromise has been sought. While the regulation of TV (or linear) services remains almost unchanged, some broadcasters desired more flexibility.

**Country of origin**

The ‘country-of-origin principle’ is regarded as the cornerstone of the EU Television Policy and has been often criticized as being insensitive to the legitimate national public interest to protect viewers and consumers of audio-visual media content and to allow them to make choices between what is being offered. The Directive sets out a streamlined infringement procedure with tight deadlines under the supervision of the European Commission. For example, the country-of-origin principle made it possible for some Nordic channels (such as TV3, based in London) or some French-speaking channels (such as RTL9, based in Luxembourg) to avoid the demanding regulations of Sweden and France (Herold 2008).

**Table 7.1:** The main steps in EU audio-visual policy.

• 1984 – Green Paper on the establishment of a common market in broadcasting	36
• 1989 – The <i>Television without Frontiers</i> Directive was adopted	37
• 1997 – The TWF first revision	38
• 2007 – The <i>Audiovisual Media Services Directive</i>	39
• 2010 – AVMSD Codification	40
• 2016 – New Directive?	41

## 1 Advertising

2  
3 The AVMSD is simpler and more flexible compared to the previous ones. In fact, it removes  
4 some of the existing quantitative limits. Although the main advertising time limit of  
5 12 minutes of advertising in any given hour has been maintained, the three-hours-per-day  
6 limit has been deleted. Moreover, the rules governing the insertion of advertising breaks  
7 during programmes have become more flexible. In the AVMSD, complex rules apply to the  
8 frequency of breaks, according to genres; generally one interruption for each period of  
9 45 minutes. Thus, commercial breaks can occur 'once for each scheduled 30-minute period'  
10 for every category of programme. By and large, the AVMSD has followed a rather liberal  
11 approach in respect of advertising, and this has generally been welcomed by associations,  
12 representing broadcasters (see also Woods 2008). On the controversial issue of food  
13 advertising aimed at children, no specific provisions were made (for example, protection of  
14 the children from adult content) but the Parliament asked Member States and the  
15 Commission to encourage audio-visual service providers to develop a code of conduct  
16 regarding children's programming containing advertising, sponsorship for unhealthy food  
17 and drinks.

## 20 Product placement

21  
22 Product placement is a novelty in the AVMS Directive and it was extremely controversial.  
23 After examination by the members of the European Parliament, the Directive defined  
24 product placement as 'any form of audio-visual commercial communication consisting of  
25 the inclusion of or reference to a product, a service or the trademark thereof so that it is  
26 featured within a programme, in return for payment or for similar consideration' and has  
27 incorporated a blanket ban on product placement within the EU, from which countries can  
28 opt out if they wish. But, product placement 'shall be prohibited' in principle (Article 3g)  
29 'unless Member States decide otherwise' (Article 3.2). According to the AVMS Directive  
30 (Article 3f), product placement is 'admissible' in film, drama and sports but programmes  
31 that contain product placement have to be appropriately identified at the start and the end  
32 of the programme, and when a programme resumes after an advertising break, in order to  
33 avoid any confusion on the part of the viewer.

## 36 Promotion of European works

37  
38 Although the circulation of European works outside their national markets has improved in  
39 the last decade, US productions are still dominant. For instance, the annual EU trade deficit  
40 with the United States in this sector is estimated to be €7 billion. The concern over American  
41 imports in light of the deregulation of broadcasting after 1980 has been expressed in the

context of the 1993 negotiations in the Uruguay Round of the GATT (General Agreement on Trade and Services), especially on the trade in cultural goods and programmes, as well as its successor GATS (General Agreement of Trade in Services), started in 2000 under the general liberalization of online services and the Trade Related Intellectual Property Rights (TRIPS) agreement (Young 2007). The EU, though concerned with the *défi Américain* (the American challenge), could not take any further steps as it was not able to impose stricter TV programming quotas in the 1997 revision of the *Television without Frontiers* Directive. Thus, in terms of policy direction, the EU has in practice failed to support its initiative on *exemption culturelle* in spite of the fact it is much the most lucrative export market for US media (Tunstall 2008). One might also note that the programming sector has been 'protected' because it was seen as serving functions other than regulating competition (such as maintaining cultural diversity and integrity), taking the 'characteristics of social trade politics' (Young 2007: 802).

In spite of US dominance, European works have had a greater impact on the programme schedules of European TV channels, with broadcasters preferring EU films and fiction to those produced by Hollywood or in other countries. The input of the EU should be recognized here, since both the TWF and AVMS directives encourage the broadcasters of Member States to transmit as much European content as they can (Article 16 of the AVMSD). The AVMSD also requires Member States to ensure that on-demand audiovisual media service providers promote, where practicable and by appropriate means, the production of and access to European works. They also have to report to the Commission on the application of this provision within 2 years of the transposition date of the Directive and every 4 years thereafter. A Commission report examining the implementation of the provisions confirmed that, by and large, the rules have been observed, with more than 66.4 per cent of EU programming time devoted to European films and fictions in 2010, with almost three-quarters of prime-time TV viewing devoted to European programmes (CEC 2011). In addition, the average share of independent producers' works broadcast by all European channels in all Member States declined from 35.3 per cent in 2007 to 39.4 per cent in 2010. However, the decline was greater if one looks at the data for 2006 (37 per cent).

### Major events

The AVMSD (Article 14) aims to ensure the free reception of selected events of major importance for society. However, it does not define what exactly constitutes events of major importance, but leaves it to the Member States to draw up, in a transparent and predictable fashion, their national lists of events and also to determine if the public should have access to the selected events by fully or partially live or deferred coverage. The implementation of this regulation remains a problematic area.

## 1 The MEDIA programme

---

2  
3 In seeking to increase the number of domestic productions, the Commission decided to  
4 continue its audio-visual support programme, MEDIA. MEDIA has been developing and  
5 strengthening Europe's film industry since 1991. Through MEDIA I, MEDIA II, MEDIA  
6 Plus and MEDIA Training, it has supported the development and distribution of  
7 thousands of films, as well as training activities, festivals and promotion projects  
8 throughout the continent. Under MEDIA Plus and MEDIA Training (2001–06) alone,  
9 the sum of more than €0.5 billion was distributed among 8000 projects. Every year, 300  
10 new European films are funded by the Commission, and half of the European films  
11 watched in cinemas are shown with its support. Several MEDIA-funded films have proven  
12 this investment worthwhile, as they have won the Palme d'Or (*Entre les murs*, France) and  
13 the Grand Prix (*Gomorra*, Italy) at the Cannes Film Festival, as well as the Oscars (*The*  
14 *Counterfeiters* [*Die Fälscher*], Austria; *La Vie en rose* [*La Môme*], France; and *Slumdog*  
15 *Millionaire*, UK). The MEDIA 2007 multi-annual programme provided a €755 million  
16 boost to Europe's film industry until 2013. Almost 65 per cent of the total budget aims to  
17 help the broader circulation of European works. MEDIA 2007 was focused on the phases  
18 before and after film production.

19 By making the distribution of European works a clear priority, the MEDIA programme  
20 in general has sought to improve the market share of European films shown in the Member  
21 States. The programme also significantly raised the visibility of the diverse cultures of Europe  
22 on the world stage, and helped to increase the competitiveness of the audio-visual industry.  
23 The Commission has been exploring ways of launching a new programme to increase the  
24 share of European movies in markets outside the EU, which is currently very marginal. The  
25 project MEDIA Mundus foresees expenditure of €60 million from 2011 onwards to promote  
26 cooperation with third countries, particularly Canada, Australia, Japan, India and China,  
27 to improve the penetration of EU movies into their markets, and vice versa. Although  
28 in principle the project will be open to anyone, it is clear that it is meant to counter US  
29 dominance in the global cinema market.

30 In general, the MEDIA Programme was adapted continuously to support the European  
31 audio-visual industry since 1991. But the Commission went further: within the Maastricht  
32 Treaty, it exploited an additional discretionary exemption for 'aid to promote culture  
33 and heritage conservation'. In effect, the Commission has called for support for the film  
34 industry, which has been suffering from structural weaknesses, including the under-  
35 capitalization of companies, the fragmentation of national markets, which are dominated  
36 by non-European productions, and poor transnational circulation of European works.  
37 National aid enables the Member States to develop their capacity to define and implement  
38 policies for the purpose of preserving cultural diversity in Europe, while the Commission  
39 has aimed to encourage cooperation between Member States, or even to support and  
40 supplement their action.

41

## Media ownership EU policy 1

The EU has not only tried to regulate public broadcasters (see Chapter 5), but also the private media sector. But its regulation of concentration has remained a controversial issue (Papathanassopoulos and Negrine 2011). Since the mid-1980s the European Parliament has been calling on the Commission to take an initiative in order to control, if not impede, the ongoing concentration of ownership in the European media sector. In 1992, the Commission published its Green Paper on *Pluralism and Media Concentrations in the Internal Market* (CEC 1992). This consultative document reviewed existing levels on media concentration in Europe. The Green Paper was heavily influenced by industrial imperatives and the policy orientations of the DGIII and argued that the European media industry was hindered by extensively different ownership rules in each Member State, whereas media companies were attempting to pursue their activities and investments (see also Harcourt 1998). In effect, the media owners were against any EU initiative to harmonize legislation on media ownership at the European level, while some larger ones, like News Corporation and Fininvest were against any EU action since it could be regarded as an impediment to investment. In the meantime, within the Commission there was growing debate on the matter while as in the case of the 'Television Directive', many questioned whether the Commission was competent to pursue policies aimed at safeguarding pluralism.

After a two-year period of consultations, debates and considerable lobbying from major international and national media groupings, Commissioner Mario Monti was prepared in July 1996 to present a first draft for a Directive on Media Pluralism to his colleagues. Among the main proposals of this draft was (a) the imposition of a 30 per cent upper limit on 'monomedia' ownership for radio and television broadcasters in their own broadcasting areas; (b) an upper limit of 10 per cent for 'multimedia' concentration (i.e. ownership for a combination of different media (television, radio and/or newspapers); (c) all market shares would be based on multiple audience measures within the area in question.

Once again these proposals, reasonable and practical for some, contested by others, raised new controversies. DG XV put forward a new version in March 1997. In this new version, the title of the proposed Directive was changed from 'Concentrations and Pluralism' to 'Media Ownership' in the Internal Market. This signalled a move to deflect the focus away from pluralism (where the Commission's competence would be in question) towards the aim of removing obstacles to the Internal Market. In effect, the then 'new' Draft Directive of 1997 differed a little from the one in July 1996. What was, however, important was that with the modification of 'flexibility' it was not securing the issue of pluralism either. As Doyle (2007) points out, it was clear that in practice, the 'flexibility clause' would allow Member States to maintain whatever upper restrictions on ownership are affordable – either economically or politically – in their own territories. This point makes the fact that the proposed Directive was eventually abandoned more questionable. The fact is that even this proposal, although it enjoyed the support of a number of Commissioners, provoked a storm of protest from media companies, especially by the European Publishers Council, which

## The Europeanization of the European Media: The Incremental Cultivation of the EU Media Policy

1 saw it as an obstacle to compete in the ‘information society’. Moreover, the EU was already  
2 pre-occupied with the 1997 Green Paper on the *Convergence of the Telecommunications,*  
3 *Media and Information Technology Sectors, and the Implications for Regulations.* The Green  
4 Paper deems that the trends towards consolidation and diversification in response to new  
5 opportunities opened up by liberalization of EU and world markets and with a view to the  
6 opportunities offered by convergence will go on (CEC 1997c: 6–7).

7 As Radaelli (2000: 36) points out, ‘the EU media concentration policy process has  
8 witnessed a persistent attempt of the Commission to finalize a draft proposal’, but it  
9 has become rather clear that any attempt to tackle the issue of media ownership and  
10 concentration at a European level is unrealistic. The industrial imperatives of the information  
11 society and the new opportunities, stakes and interests of the convergence of the media,  
12 telecommunications and information society make it difficult to tackle this thorny problem.  
13 As Iosifidis (2007) notes, convergence has already revealed the inadequacy of European  
14 initiatives to harmonize sectorial ownership regulation. Added to this is the inadequacy  
15 of the tools used to measure and evaluate such things as market concentration and market  
16 influence.

17 In short, the EU seems powerless to regulate the issue of concentration, apart from  
18 scrutinizing the mergers and acquisitions under the competition law (see also Doyle  
19 2007). This has been recognized by the Economic and Social Committee, which addressed  
20 those questions on its own initiative. According to Radaelli (2000: 36) ‘isomorphism has  
21 been instrumental in this advancement of the EU media policy process, but in a very  
22 unconventional way’. Indeed, the EU had the wiliness but not the backing to impose a policy  
23 on the ownership issue. In fact, it is extremely difficult for the EU to develop a coherent  
24 policy on mergers and concentration of activity since the measurement of market strength  
25 is extremely difficult to assess. Large diversified conglomerates cannot easily be classified  
26 under any single category. This is more so with the entry of multimedia companies, which  
27 are expanded in various sectors of the communication domain and the convergence of  
28 telecommunications and media sectors, which will alter the structures and the economics in  
29 the wider sector. Competition on the new communication environment may be affected by  
30 the existence of bottlenecks at each level of the vertical supply chain – the various markets  
31 for content, transmission networks and/or technical services – as each of these constitutes  
32 an essential input for a pay-TV operator. Competition on the pay-TV market can be affected  
33 by leveraging of market power from one level to another or through foreclosure effects  
34 caused by vertical integration.

35 In 2007, the Commission produced a working paper on media pluralism, which stressed  
36 the need to ensure that citizens have access to a variety of information sources, allowing them  
37 to form opinions without ‘undue influence of one dominant opinion-forming player’ (CEC  
38 2007b). It also noted that the emergence of new technology should not be taken as a threat  
39 to media pluralism. That said, it has failed to control Google and its dominant position  
40 *vis-à-vis* Internet searches and services in the region. On 26 November 2013, the Council  
41 of the European Union and the representatives of the Governments of the Member States,

meeting within the Council, adopted ‘conclusion on media reform and pluralism’ in the digital environment. In those conclusions, the Council invites the Commission to (*Official Journal of the EU* 2014):

- continue to support projects that aim to enhance the protection of journalists and media practitioners;
- continue to support the independent monitoring tool for assessing risks to media pluralism in the EU (MPM);
- strengthen cooperation between Member States’ audio-visual regulatory authorities and promote best practice as regards the transparency of media ownership;
- assess the effectiveness of these measures in order to consider any further steps.

The problem, however, remains. Media ownership in the EU is highly concentrated, while media regulatory authorities across Europe face strong political pressures (see the report of Centre for Media Pluralism and Freedom 2016). In June 2017, the Council of Europe adopted Resolution 2179 on political influence over media that stresses the major changes in the media industry and calls for greater transparency on media ownership.

### Concluding remarks

Since the publication of the Green Paper on ‘Convergence’, the European Commission has come to realize that the then regulatory framework for television broadcasting in Europe can no longer correspond to the realities of the communications sector. In fact, in the Internet era, audio-visual policy is under major revision and within the wider digital policy.

By and large, the EU has consistently sought to provide a framework favourable to the development and harmonization of the media sector as well as to support the European programme and cultural industry. EU media regulation shows the effort of the EU not only to *Europeanize* the European audio-visual universe but also to make it more competitive and responsive to the needs of the global and regional markets. While in the past some questioned the competence/jurisdiction of the EU to deal with media output, today they ask for its support.

The most significant change in the AVMSD was the introduction of the concept of ‘audio-visual services’ and of minimal regulation applying to both linear and non-linear audio-visual services. While the AVMSD appears to be more realistic compared to previous ones, it is yet to be seen whether and to what extent it would apply. This also has to do with the EU’s approach asking from governments to encourage self-regulation in certain fields, sometimes combined with government intervention (‘co-regulation’) – where their legal systems allow. Such regimes must be broadly accepted by the main stakeholders and provide for effective enforcement.

1 In 2012, the European Commission presented a report on the application of the  
 2 AVMSD showing that 25 Member States notified complete transposition of the AVMSD  
 3 into their national legislation. But on contested areas it presents problems. For example,  
 4 the Commission monitored advertising practices in eight Member States during the  
 5 reference period. In a number of Member States the 12-minute limit of advertising  
 6 spots is regularly breached. By and large, the most problematic issues arising from the  
 7 Directive are on (a) advertising breaks and product placement; (b) gender stereotypes;  
 8 (c) broadcasting rights for events of major importance and (d) insufficient promotion  
 9 of European and independent works (CEC 2012: 1–13). These discrepancies to a certain  
 10 degree show how the processes of Europeanization are complex, sometimes contradictory  
 11 and an uneven phenomenon since the pace towards Europeanization is different  
 12 among the different Member States. Moreover, such differences often cause problems of  
 13 implementation thus giving rise to new discrepancies. These discrepancies also confirm  
 14 Castells's (2000) approach of the EU as a 'network state' in which the European polity is  
 15 characterized by a complex network of European national and sub-national institutions  
 16 that give rise to a *Europe à la carte*, i.e. different levels of integration depending upon  
 17 countries and issues. But one must admit, the EU may not have managed to give rise to  
 18 a borderless television in European, but at least has been successful putting the cement  
 19 for a harmonized television system, with common rules and regulation across Europe.  
 20 The Commission in May 2015 announced the creation of a 'Media framework for the  
 21 21st century'. In effect, the Commission on 6 July 2015 launched a public consultation aiming  
 22 to invite all stakeholders, ranging from market players to individual users of *Audiovisual*  
 23 *Media Services*, to share their views on an array of issues related to the AVMSD in order  
 24 to review the existing rules, and offer a regulatory environment for audio-visual media  
 25 services, fit for the digital era (CEC 2015b). In fact, the review of the AVMSD is one of 16  
 26 key action points, presented by the Juncker Commission on 6 May 2015, in its Strategy to  
 27 complete the Digital Single Market (CEC 2015a).

## 30 References

- 32 Anon. (2014), 'Conclusions of the Council and of the Representatives of the Governments  
 33 of the Member States, meeting within the Council, on media freedom and pluralism  
 34 in the digital environment', *Official Journal of the European Union*, 4 February 2014,  
 35 pp. C 32/6-7.
- 36 Bauer, M. W., Knill, C. and Pitschel, D. (2007), 'Differential Europeanization in Eastern Europe:  
 37 The impact of diverse EU regulatory governance patterns', *Journal of European Integration*,  
 38 29:4, pp. 405–23.
- 39 Castells, M. (2000), *The End of the Millennium*, Cambridge: Polity Press.
- 40 CE (Council of Europe) (1997), *Report on Media Concentrations and Pluralism in Europe*, MM-  
 41 CM (97), Final, Brussels.

## Comparative Media Policy, Regulation and Governance in Europe

- (2017) ‘Resolution 2179. Political influence over independent media and journalists’, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23990&lang=en>. Accessed 30 May 2017.
- CEC (Commission of the European Communities) (1983), *Interim Report on the Realities and Tendencies on European Television: Perspectives and Options*, COM 229, Final, Brussels.
- (1984), *Television Without Frontiers*, Green Paper on the Establishment of the Common Market for Broadcasting, Especially by Cable and Satellite, Communication from the Commission to the Council, COM 30, Final, Brussels.
- (1989), *Council Directive of 3.10. 1989 on the Coordination of certain Provisions laid down, Regulation or administrative Action in Member States concerning the Pursuit of Television Broadcasting Activities*, COM 552 EEC Final, Brussels.
- (1992), *Pluralism and Media Concentration in the Internal Market: An Assessment of the Need for Community Action*, COM 480, Final, Brussels.
- (1994), *Communication to Parliament and Council: Follow-up to the Consultation Process Relating to the Green Paper on ‘Pluralism and Media Concentration in the Internal Market – An Assessment of the Need for Community Action’*, COM 353, Final, Brussels.
- (1997a), *Directive 97/36/EC of the European Parliament and the Council of 30 June, amending Council Directive 89/552/EEC on the Coordination of certain Provisions laid down, Regulation or administrative Action in Member States concerning the Pursuit of Television Broadcasting Activities*, COM (36), EEC Final, *Official Journal of the European Communities*, L 202, Brussels.
- (1997b), *Explanatory Memorandum (Media Ownership in the Internal Market)*, DG XV, Brussels.
- (1997c), *Green Paper on the Convergence of the Telecommunications, Media and Information Technology Sectors and the Implications for Regulation, towards an Information Society Approach*, COM 623, Final, Brussels.
- (1999), European Commission, *Proposal for a Programme in Support of the Audiovisual Industry, MEDIA Plus, 2001–2005*, COM 658, Final, Brussels.
- (2004), ‘Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings’, *Official Journal of the European Communities*, 31 (5), Final, Brussels.
- (2007a), *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*, *Official Journal of the European Union*, L 27 (332), Final, Brussels.
- (2007b), *Commission Staff Working Paper, Media Pluralism in the Member States of the European Union*, 16 January 2007, SEC, 32, [http://ec.europa.eu/information\\_society/media\\_taskforce/doc/pluralism/media\\_pluralism\\_swp\\_en.pdf](http://ec.europa.eu/information_society/media_taskforce/doc/pluralism/media_pluralism_swp_en.pdf). Accessed 5 September 2017.
- (2011), *Study on the Implementation of the Provisions of the Audiovisual Media Services Directive Concerning the Promotion of European Works in Audiovisual Media Services*. Final Study Report, 13 December, SMART N° 2010/0002, Contract number 30-CE-0388270/00-75.

## The Europeanization of the European Media: The Incremental Cultivation of the EU Media Policy

- 1 ——— (2012), Report from the Commission to the European Parliament, the Council, the  
 2 European Economic and Social Committee and the Committee of the Regions. *First Report*  
 3 *on the Application of Articles 13, 16 and 17 of Directive 2010/13/EU for the period 2009–2010:*  
 4 *Promotion of European Works in EU scheduled and on-demand Audiovisual Media Services,*  
 5 COM/2012/0522.
- 6 ——— (2013), *Implementation of the Audiovisual Media Services Directive, Committee on*  
 7 *Culture and Education* PE500.577 European Parliament Resolution of 22 May 2013 on the  
 8 *Implementation of the Audiovisual Media Services Directive*, INI 2132, P7 TA 0215, Brussels.
- 9 ——— (2015a), ‘A digital single market strategy for Europe’, COM 192, Final, Brussels.
- 10 ——— (2015b), ‘REFIT evaluation and impact assessment of the EU Audiovisual Media Services  
 11 Directive 2010/13/EU (AVMSD)’, DG CONNECT, UNIT G.1 (Converging Media And  
 12 Content), 10, Final, Brussels.
- 13 Centre for Media Pluralism and Freedom (2016), *Media Pluralism Monitor 2016 – Results*, Florence,  
 14 <http://cmpf.eui.eu/media-pluralism-monitor/mpm-2016-results>. Accessed 17 November  
 15 2017.
- 16 CES (Comité Economique et Sociale) (2000), *Pluralism and Concentration in the Media in the*  
 17 *Age of Globalization and Digital Convergence*, Brussels.
- 18 EU Parliament (2017) ‘2016/0151(COD) – 10/05/2017 Committee report tabled for plenary,  
 19 1st reading/single reading’, <http://www.europarl.europa.eu/oeil-mobile/summary/1489159?t=e&d=en>.  
 20 Assessed: 30 August 2017.
- 21 European Parliamentary Research Service (2017), ‘*The Audiovisual Media Services Directive.*  
 22 Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/583859/EPRS\\_](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/583859/EPRS_BRI%282016%29583859_EN.pdf)  
 23 [BRI%282016%29583859\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/583859/EPRS_BRI%282016%29583859_EN.pdf). No longer available.
- 24 De Smaele, J. (2007), ‘More Europe: More unity, more diversity? The enlargement of the European  
 25 Audiovisual Space’, *European Studies*, 24, pp. 113–34.
- 26 Doyle, G. (2007), ‘Undermining media diversity: Inaction of media concentrations and pluralism  
 27 in the EU’, *European Studies*, 24, pp. 135–56.
- 28 Featherstone, K. and Radaelli, C. (eds) (2003), *The Politics of Europeanization*, Oxford: Oxford  
 29 University Press.
- 30 Füg, O. C. (2008), ‘Save the children: The protection of minors in the information society and the  
 31 *Audiovisual Media Services Directive*’, *Journal of Consumer Policy*, 31:19, pp. 45–61.
- 32 Glenn, J. K. (2004), ‘From nation-states to Member States: Accession negotiations as an  
 33 instrument of Europeanization’, *Comparative European Politics*, 2, pp. 3–28.
- 34 Graziano, P. and Vink, M. P. (eds) (2007), *Europeanization: New Research Agendas*, Basingstoke:  
 35 Palgrave Macmillan.
- 36 Harcourt, A. (1998), ‘EU media ownership regulation: conflict over the definition of alternatives’,  
 37 *Journal of Common Market Studies*, 36:3, pp. 369–89.
- 38 Harcourt, A. (2002), ‘Engineering Europeanization: The role of the European institutions in  
 39 shaping national media regulation’, *Journal of European Public Policy*, 9:5, pp. 736–55.
- 40 ——— (2005), *The European Union and the Regulation of Media Markets*, Manchester: Manchester  
 41 University Press.
- 42 Harcourt, A. (2008), ‘Introduction’, in G. Terzis (ed.), *European Media Governance: The Brussels*  
 43 *Dimension*, Bristol: Intellect, pp. 13–24.

## Comparative Media Policy, Regulation and Governance in Europe

- Herold, A. (2008), 'Country of origin principle in the EU Market for Audiovisual Media services: Consumer's Friend or Foe?', *Journal of Consumer Policy*, 31:19, pp. 5–24. 1  
2
- Humphreys, P. and Simpson, S. (2008), 'Globalization, the "Competition" state and the rise of the "Regulatory" state in European telecommunications', *Journal of Common Market Studies*, 46:4, pp. 849–74. 3  
4  
5
- Iosifidis, P. (2007), 'The application of EC competition policy to the media industry', *The International Journal on Media Management*, 7:3&4, pp. 103–11. 6  
7
- Knill, C. and Lehmkuhl, D. (2002), 'The national impact of European Union regulatory policy: Three Europeanization mechanisms', *European Journal of Political Research*, 41, pp. 255–80. 8  
9
- Ladrech, R. (1994), 'Europeanization of domestic politics and institutions: The case of France', *Journal of Common Market Studies*, 32:1, pp. 69–88. 10  
11
- Lenschow, A. (2006), 'Europeanization of public policy', in J. Richardson (ed.), *European Union: Power and Policy Making*, Milton Park: Routledge, pp. 55–72. 12
- Olsen, P. J. (2002), 'The many faces of Europeanization', *Journal of Common Market Studies*, 40:5, pp. 921–52. 13  
14
- Papathanassopoulos, S. and Negrine, R. (2011), *European Media*, Cambridge: Polity Press. 15
- Radaelli, M. C. (2000), 'Policy transfer in the European Union: Institutional isomorphism as a source of legitimacy', *Governance: An International Journal of Policy and Administration*, 13:1, pp. 25–43. 16  
17  
18
- Subiotto, R. and Graf, T. (2003), 'Analysis of the principles applicable to the review of exclusive broadcasting licences under EC competition law', *World Competition*, 26:4, pp. 589–608. 19  
20
- Thatcher, M. (2004), 'Varieties of capitalism in an internationalized world: Domestic institutional change in European telecommunications', *Comparative Political Studies*, 37:7, pp. 751–80. 21  
22
- Tunstall, J. (2008), *The Media Were American*, New York: Oxford University Press. 23
- Woods, L. (2008), 'The consumer and advertising regulation in the *Television without Frontiers* and *Audiovisual Media Services Directives*', *Journal of Consumer Policy*, 31:19, pp. 63–77. 24  
25
- Young, A. (2007), 'Trade politics aren't what it used to be: The European Union in the Doha round', *Journal of Common Market Studies*, 45:4, pp. 789–811. 26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41