Understanding Media Policies
A European Perspective
E. Psychogiopoulou
ISBN: 9781137035288
DOI: 10.1057/9781137035288preview
Palgrave Macmillan

Please respect intellectual property rights

Understanding
Media Policies
A European Perspective

Edited by
Evangelia Psychogiopoulou

Understanding Media Policies

Also by Evangelia Psychogiopoulou

THE EUROPEAN COURT OF HUMAN RIGHTS AND THE RIGHTS
OF MARGINALISED INDIVIDUALS AND MINORITIES IN NATIONAL CONTEXT
(*co-editor with Dia Anagnostou*)

THE INTEGRATION OF CULTURAL CONSIDERATIONS IN EU LAW AND POLICIES

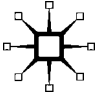# Understanding Media Policies

A European Perspective

Edited by

Evangelia Psychogiopoulou
Hellenic Foundation for European & Foreign Policy

palgrave
macmillan

Contents

v

Tables and Figures

Tables

Figures

Acknowledgements

Contributors

Dia Anagnostou is a lecturer in politics in the Department of Balkan, Slavic and Oriental Studies at Macedonia University of Thessaloniki, a senior research fellow at the Hellenic Foundation for European and Foreign Policy in Athens, and a Marie Curie Research Fellow in the Law Department of the European University Institute, Florence (2010–2012). While her original research interests were in the fields of comparative politics of South East Europe and European integration, they subsequently extended to the study of human rights, minorities, and the role of courts from a socio-legal studies perspective. Her articles have appeared in *West European Politics*, *Southeast European Politics*, *International Journal of Human Rights*, and *European Public Law*, among others. Her recent publications also include *The European Court of Human Rights and the Rights of Marginalised Individuals and Minorities in National Context* (2010, co-editor with E. Psychogiopoulou).

Paško Bilić is a PhD candidate in the Interuniversity Postgraduate Doctoral Study in Sociology in the Faculty of Humanities and Social Sciences, University of Zagreb. He graduated in 2008 with an MA in sociology and history from the Center for Croatian Studies, University of Zagreb. He works as a research assistant in the Department for Culture and Communications, Institute for International Relations, Zagreb, Croatia. His research interests include mass media, social media, wiki-projects, computer-mediated communication, social development, consumer culture, and qualitative research methods.

Federica Casarosa is currently a research assistant at the European University Institute. She graduated from the University of Pisa with a degree in private comparative law. She obtained a master of research degree in law from the European University Institute (2003). In 2007 she successfully defended her PhD thesis on the role of information in online contracting, analysing in particular the protection provided to consumers in the pre-contractual phase. In 2009 she was awarded a Jean Monnet Fellowship at the Robert Schuman Centre for Advanced Studies for research focused on the protection of children in the media sector.

Rachael Craufurd Smith is a senior lecturer at the University of Edinburgh. Before becoming an academic, she gained considerable experience working both in private legal practice and as an adviser on media law and policy

ix

for the BBC. She teaches media law at both undergraduate and postgraduate levels and supervises a range of PhD research students working in the media field. She has written widely on the impact of constitutional guarantees, fundamental rights, and international and domestic laws on media pluralism and diversity. More recently her research has focused on the impact of convergence on established domestic regulatory regimes and the evolving relationship between individuals and the mass media. She is a member of the Europa Institute and co-director of the AHRC Script Centre, based in the School of Law, University of Edinburgh. She is also an editor of *Journal of Media Law*.

Susana de la Sierra is Professor of Administrative Law at the University of Castilla-La Mancha, Director of the Centre of European Studies at the same university and a former adviser to the Supreme Court in Spain for European legal issues. Her research interests include European and global administrative law, comparative law, and media law. She has published a book on film law, as well as many articles on Spanish and European audiovisual law and on comparative law as a method of European legal integration. She has been a visiting fellow at the University of Oxford and the European University Institute, Florence, and a Fulbright visiting scholar at Columbia University, New York.

Pierre-François Docquir is a postdoctoral researcher at the Centre Perelman for Legal Philosophy and an associate researcher at the Centre for Communication and Information Law, Université Libre de Bruxelles (ULB), where he teaches human rights law. He received his law degree cum laude from Katholieke Universiteit Leuven in 1997, a diplôme d'études approfondies (master's degree) in law summa cum laude from ULB in 2006, and his PhD in law from ULB in January 2009. He previously worked as an attorney at the Brussels Bar and currently serves as Vice-President of the *Conseil Supérieur de l'Audiovisuel*. He is a member of the editorial board of *Revue du droit des technologies de l' information* and runs a blog dedicated to freedom of expression (www.opiniondissidente.org). His main areas of interest include freedom of speech, comparative law, national and comparative media law, cyberlaw, and democratic internet regulation.

Esra Elmas majored in media and communication systems and minored in sociology at Istanbul Bilgi University, where she also received her master's degree in cultural studies. Her thesis, published in 2007, focused on primary school children's perception of the myth of Atatürk. She has also published in the areas of internal migration and civil–military relations in contemporary Turkey. Between 2006 and 2007 she worked as a reporter on the weekly political news magazine *Nokta*. She is currently a PhD researcher in

the Department of Political Science at Galatasaray University, and a teaching assistant at Istanbul Bilgi University.

Georgi Ganev holds a PhD in economics from Washington University in St. Louis. He has been Programme Director of Economic Research at the Centre for Liberal Strategies in Sofia since 1997. He is assistant professor at Sofia University, teaching money, banking, and financial markets and new institutional economics since 1998. He is a member of the Ethics Commission for Print Media at the National Council for Journalistic Ethics. His areas of specialisation include monetary economics, new institutional economics, and economic issues of transition. In 1999–2001 he was an expert with the Economic Policy Committee of the Bulgarian National Assembly.

Cristian Ghinea is Executive Director of the think tank Romanian Center for European Policies, a political analyst, and a columnist in the Romanian media. Previously he worked for the Helsinki Committee and Freedom House in Romania and wrote the chapters on Romania in the international reports 'Media Sustainability Index' and 'Nations in Transit'.

Emilio Guichot is Professor of Administrative Law at the University of Seville. His main research interests are European administrative law; property, expropriation and non-contractual liability; media law and access to information; and data protection law. He has published widely on these topics and has conducted research at various institutions, such as Paris I-La Sorbonne, Paris VIII, the University of Munich, the University of Montreal, the Court of Justice of the European Union, and the European University Institute. He is a member of two research projects on public law in information society and on new methods of regulation.

Christoph Gusy is Professor of Law at the University of Bielefeld, with expertise in public and constitutional law, general theory of state, and constitutional history. Between 1998 and 2005 he was vice-rector of the university. He taught as a visiting professor at the University of Paris I (Panthéon/Sorbonne, 2000) and at the University of Strasbourg (Robert Schuman, 2002–2004). He has participated in several interdisciplinary research projects, focusing on, among other things, political communication and the implementation of the judgments of the European Court of Human Rights. He is the author of more than 20 books and about 200 essays.

Halliki Harro-Loit is Professor of Journalism and Head of the Institute of Journalism and Communication at the University of Tartu. She has taken administrative and academic responsibilities for several projects, including a project about changes in organisational culture in Estonian media organisations and a project on the communication strategies of public authorities

(including media strategies) before, during, and after periods of crisis. She also leads the research group on cultural communication in the Centre of Excellence in Cultural Theory, University of Tartu. She is the author of numerous academic publications and various articles on journalism studies, and has recently published on the diversity of media and online professional journalism in the Baltic states. Among other subjects she has been teaching communication law and ethics since 1992. She is a member of the (original) Estonian Press Council (since 1992). For the period 1997–2002 she was the vice-chairperson of the (original) Estonian Press Council.

Rasmus Helles holds a PhD in media studies from the University of Copenhagen and since 2009 has been an assistant professor in the Department of Media, Cognition and Communication at the same university. He participated in the research project MODINET (Media and Democracy in the Network Society) and has worked on 'new' digital media, media use, and democracy. He has published a number of articles on digital media, web communication, and medium theory.

Anna Kandyla is a research assistant at the Hellenic Foundation for European and Foreign Policy, Athens, Greece. She holds a bachelor's degree in communication and mass media from the University of Athens and an MA in political behaviour from the University of Essex, UK. She has worked as a research assistant at the Amsterdam School of Communications Research, University of Amsterdam, and as a *stagiaire* at the Communication Unit of the Directorate General Interpretation of the European Commission. She has also held research positions in the field of market research.

Dilek Kurban is Director of the Democratisation Program at the Turkish Economic and Social Studies Foundation. She received her bachelor's degree in political science and international relations from Boğaziçi University, Istanbul. She received her master's in international affairs in human rights from Columbia University's School of International and Public Affairs, and her juris doctor degree from Columbia Law School. She worked as an associate political affairs officer at the Security Council Affairs Division of the United Nations Department of Political Affairs in New York. She is a columnist for the national daily *Radikal* and is a page editor for *Agos*, a Turkish-Armenian bilingual weekly. She is a founding member of the Diyarbakır Institute for Political and Social Research and an adjunct professor of law in the Political Science Department of Boğaziçi University. She has published in the areas of minority and human rights in Turkey, internal displacement in Turkey, and European minority and human rights law.

Heikki Kuutti is a research fellow in journalism in the Department of Communication, University of Jyväskylä. His doctoral thesis focused on

investigative reporting. He has working experience as a journalist, a journalism teacher, and a researcher at the University of Jyväskylä. He has also been Head of the Information Department of the Finnish Air Force and President of Media Doc Ltd. His research interests focus on journalism practices, media relations, and the accessibility of official material in journalism. His publications include ten books on journalism and the media.

Epp Lauk is a professor of journalism at the University of Jyväskylä. She has worked as a professor at the University of Tartu, and as a guest professor at the universities of Oslo and Stockholm. She has participated in numerous national and international journalism research and training projects and networks. Her publications include more than 90 articles and book chapters, and five edited or co-edited books on journalism in post-communist countries, journalism cultures and history, self-regulation. She is Chairperson of the Estonian Press Council (since 2005), Co-chair of the History Section of IAMCR and Co-chair of the Central and Eastern European Network of ECREA.

Urmas Loit is a lecturer at the University of Tartu. He was the Estonia country reporter and local translator, editor, and publisher for the OSI/EUMAP European report 'Television across Europe: Regulation, Policy and Independence' (2005). He has been a member of the (original) Estonian Press Council since 1992 and was its chairperson between 1996 and 2002. He is a former radio journalist (1988–1995) and former managing director of the Association of Estonian Broadcasters (1996–2009).

Marina Mantini is a researcher for the MEDIADEM project at the University of Castilla-La Mancha. She received her PhD in international cooperation and sustainable development policies from the University of Bologna and the Complutense University of Madrid. She has worked for several years for the University of Bologna in Italy and for AECID (Spanish Agency for International Development Cooperation) in Spain, managing and doing research on different projects, especially cultural. She has specialised in sociosemiotics, communication for social change, 'new' media analysis, and the relationship between culture and environment.

Sebastian Müller is a researcher in the Law Faculty of the University of Bielefeld. He holds a PhD in law on non-judicial mechanisms in the field of human rights protection. Parts of his thesis analysed the necessary structures for democratic participation in human rights protection, examining the role of the media in this respect. As a researcher at the law faculty, he has been involved in two collaborative research projects, one on political communication and the other on human rights protection in Germany. Before joining the university he worked for domestic human rights non-governmental

organisations, the Federal Commissioner for Migrants and Refugees of the Federal Government of Germany, and the German Institute for Human Rights in Berlin.

Alina Mungiu-Pippidi is a professor of governance and democracy studies at Hertie School of Governance in Berlin and President of the Romanian Academic Society. She is engaged in various civic initiatives and writes for prestigious journals as an expert in the democratisation and the Europeanisation process.

Pasi Nevalainen is a doctoral student in Finnish history at the University of Jyväskylä. He has also worked as a researcher in the Department of Communication, University of Jyväskylä, on projects relating to freedom of the media in Finland. He is currently working on a project examining how the Finnish state's role as a provider of postal and telecommunications services has changed from the 1940s to the 1990s.

Mária Ondruchová-Hong graduated with a master's degree in political science from Comenius University, Slovakia. She has worked as a foreign correspondent for TASR Slovakia in Los Angeles since 2007, and as a senior researcher at the School of Communication and Media, Bratislava, since 2010. Between 2001 and 2006 she was a senior communication adviser to the Slovak Prime Minister Mikuláš Dzurinda. In 2005 she worked in the German Press Office and the German Federal Ministry of Interior as a Robert Bosch Fellow.

Evangelia Psychogiopoulou is a lawyer and a research fellow at the Hellenic Foundation for European and Foreign Policy, Athens, Greece. A graduate from the Faculty of Law of the Kapodistrian University of Athens, she holds a DEA in EU law from Paris I University, a master of research degree in law from the European University Institute, Florence, Italy, and a PhD in law from the same university. Her main areas of research are EU cultural and media policies and human rights protection. She has held research and management positions at the Academy of European Law, Florence, Italy, the Directorate of General Education and Culture of the European Commission, and UNESCO. She has extensive experience in collaborative research and she is the author of *The Integration of Cultural Considerations in EU Law and Policies* (2008) and co-editor (with D. Anagnostou) of *The European Court of Human Rights and the Rights of Marginalised Individuals and Minorities in National Context* (2010).

Katharine Sarikakis is Professor of Media Governance, Media Structures, and Media Organisation at the University of Vienna. Previously she founded

and led the Centre for International Communication Research at the University of Leeds, UK. She has held visiting and permanent positions at the University of McGill, Canada; Karlstad University, Sweden; and Coventry University, UK. Currently she is working on a research monograph about the governance of communication and control. Other books include *Powers in Media Policy* (2004), *British Media in a Global Era* (2004), *Media Policy and Globalization* (co-author, 2006), and *Media and Cultural Policy in the European Union* (editor, 2007). She is also the co-founder and co-editor of the *International Journal of Media and Cultural Politics*.

Andrej Školkay has lectured in journalism and media schools across Slovakia and abroad. He has published widely on various aspects of the media, focusing in particular on media and politics relations. He is the author of *Media and Globalisation* (2009) and *Media Law in Slovakia* (2010). He is Director of the School of Communication and Media, Bratislava, Slovakia.

Daniel Smilov is a comparative constitutional lawyer and a political scientist. He is Programme Director for Political and Legal Research at the Centre for Liberal Strategies, Sofia, Bulgaria, Recurrent Visiting Professor of Comparative Constitutional Law at Central European University, Budapest, Hungary, and Assistant Professor of Political Theory in the Political Science Department, University of Sofia. He holds doctorate degrees from the University of Oxford (DPhil, 2003) and Central European University (SJD, 1999, summa cum laude). In 2002–2003 he was research fellow in the Centre for Policy Studies at Central European University. In 2003–2004 he was Jean Monnet Fellow at the European University Institute, Florence, Italy. He was also a visiting scholar at the Boalt Hall School of Law, University of California, Berkeley, in 1995. He has published extensively in his areas of expertise.

Ruzha Smilova is Assistant Professor of Political Theory at the Political Science Department, University of Sofia, Bulgaria. She has participated as external researcher in a number of projects, carried out by the Centre for Liberal Strategies, Sofia, on voting behaviour and participation in politics. She has a doctorate from Central European University (CEU), Budapest, Hungary. Her dissertation received a CEU award in 2006. Apart from political theory, her research interests are in the area of parliamentarianism and civic participation in political processes.

Irene Sobrino has been a lecturer and researcher in constitutional law at the University of Seville since October 2006. She holds a PhD in law from the European University Institute on the relations between the welfare state and federalism from a comparative perspective. Her research interests are in political theory and comparative research on social rights, European integration, citizenship, and political decentralisation. She is currently

conducting post-doctoral research as a Fulbright visiting scholar at Harvard Law School.

Riitta Sokka studied economics and commercial law and obtained a master's degree in economics from the University of Jyväskylä. She participated in the research project 'The Publicity of Information of Authorities' at the University of Jyväskylä, which evaluated the realisation of the provisions of the Finnish Freedom of Information Act. Her research interests focus on media policy and regulation.

Henrik Søndergaard holds a PhD in media studies from the University of Copenhagen and a master's degree in literature. He is an associate professor in the Department of Media, Cognition and Communication, University of Copenhagen, and a member of the Radio and Television Board, the Danish independent regulatory authority for radio and television. He previously served as Head of the Danish Association of Media Researchers and Head of the Council for Public Service Broadcasting. He has participated in several research projects, including MODINET (Media and Democracy in the Network Society), Global Media Cultures, and Programming within Nordic Public Service Broadcasting. He has published extensively on Danish and Scandinavian broadcasting systems, media regulation, media policy, media history, and audience research. His main research focus has been on public service broadcasting and programme strategies within public service media.

Yolande Stolte graduated with an LLB degree in 2007 from the University of Leiden and obtained an LLM in civil law from the same university in 2008. She was awarded the VSB foundation scholarship to further specialise in her main field of interest: intellectual property and media law. She used this to obtain an LLM in innovation, technology, and the law at the University of Edinburgh, writing a dissertation on 'The Impartiality Requirement in the UK: Television News Reporting in the 21st Century'. Since graduating in 2009 she has worked as a research assistant on several projects in the field of intellectual property and media law at the University of Edinburgh. She is currently an editor for the online legal journal *SCRIPTed*.

Nada Švob-Đokić is a scientific adviser in the Culture and Communications Department, Institute for International Relations, Zagreb. She has led numerous research projects in the areas of cultural communication and technological development, transition, and international cooperation. In 2000 she established and coordinated the international project 'Redefining Cultural Identities' (2000–2007), initially supported by the EU. She teaches in the Faculty of Philosophy at the University of Zagreb and has published more than 300 articles, studies, monographs, research reports, and books in Croatian, English, French, and other languages. She has also been a

consultant to UN organisations, EU agencies, and the Council of Europe on issues such as technical cooperation; the position of women in development projects; EU cooperation with third countries; regional cultural, scientific and media cooperation; and cultural and media policies.

Bart Van Besien is a researcher at the Centre Perelman for Legal Philosophy. He studied law and history at Katholieke Universiteit Leuven and obtained a master's degree in European law from the Université Libre de Bruxelles. After graduating, he specialised in intellectual property law and internet law, and worked as an attorney in Belgium and as an in-house legal counsel in Ireland. He is currently writing his PhD thesis in the field of media law. Other fields of interest are internet law, intellectual property law, legal history, human rights, and philosophy of law.

This page intentionally left blank

Recasting the Contours of Media Policy in a Political Context: An Introduction

Evangelia Psychogiopoulou and Dia Anagnostou

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, has 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 have been

1

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 this 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 ongoing 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 this 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.

Certainly, over the past ten years or so there has been a wealth of studies that have 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; Gibbons, 1998; Goldberg, Prosser and Verhulst, 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 about 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 among 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 Directive,[2] 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 *et al.*, 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 (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 that 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. While 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 this 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, among other

things, 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 currently 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 telecommunications 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 with 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, among other things.

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, while 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, and so on.

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' (Hamelink, 1995; Castells, 1996; Ó Siochrú, Girard and Mahan, 2002; Raboy, 2002; Castells and Gardoso, 2006; Chakravartty and Sarikakis, 2006; 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' (Hamelink and Nordenstreng, 2007; Latzer, 2007; McQuail, 2007; Puppis, 2008, 2010). 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, and 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