Challenges of convergence to media regulation: from sectoral to hybrid regulatory framework?

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Rovaniemi, 27 August 2013
• Structure:
• 1. Introduction: European perspective
• 2. National media systems: towards regulatory convergence
• 3. Example: Finnish broadcasting company YLE
• 4. Conclusions: privacy?
General picture

• Conclusions from recent research projects on European media and communications systems:
  – No single European model
  – Differences in national markets (historical, sector based, financial)
  – Differences in national legislation
  – Differences in the functions of national regulatory authorities & in their competences

• Background: national histories – divergent roads in developing national democracies
• Historically, media systems developed in each country to balance the competing interests according to national conditions:
  – Freedom of Expression
  – Public Service Broadcasting
  – Universal Service Obligation
  – Copyright limitations
• Shared general principles – different national forms
EU perspective

• From the EU perspective:
  – European competitiveness and efficiency in troubles: Europe lagging behind of US and Asia – a problem: how to catch up
  – A need for a European Single Market in media and communication – central to the EU’s Information Society policy
  – Fragmentation of regulation seen as an obstacle to competitive European media and communication industries

• EU: an urgent need for more unity and coordination
EU instruments

• Two main directions:
  – Harmonising & coordinating legislation: AVMSD, Telecoms Package, Copyright, E-commerce directive, Data Protection, PSB communication – ONGOING
  – Institutionalising a European Regulatory Authority in media and communication: substituting NRAs (and EPRA & BEREC) by a new body – STALLED/DELAYED
EU problems

• Major problems for the EU:
  – Economic vs. democratic values: the tension between the EU’s mission (SEM) and the social, cultural and democratic needs and interests of its member states (exemplified in the case of PSB)
  – Rapid changes brought by digital convergence: tensions between the industries (e.g. the Internet vs. newspapers) and within an industry (e.g. telecoms; television equipment)
EU’s attempts to facilitate change

• Two phases:
  1) Liberalisation and de-regulation: towards market regulation (from 1980s to early 2000s)
     – Major failures: twin crashes of Dot Com and Telecoms (2000-2002); digitalisation of television; European broadband policy; etc.
  2) Re-engagement of the State: towards re-regulated converged market (from early 2000 to today)
     – Statist interventions in telecoms/digitalisation/broadband regulation

• Developing centralised & hybrid regulatory instruments (INRAs; legislation)
Where are we now

• Two interim conclusions:
  – The new converged & hybrid model of regulation does not follow the ‘old’ balanced approach; instead, the economic logic is substituting democratic values – also on the nation state level
  – EU continues the promotion of ESM goals through piecemeal legislative initiatives: Green Paper in ‘Connected TV’; digital copyright; media pluralism; etc.
2. National media systems: regulatory convergence

• The project *Facing the Coordination Challenge: Problems, Policies, and Politics in Media and Communications Regulation*, funded by the Academy of Finland (2011-2015)
Starting points

• The claim of a new communications policy paradigm and regulatory convergence (McQuail & van Cuilenburg 2003)
• The claim of Nordic democratic corporatism/exceptionalism (Hallin & Mancini 2004)
• The claim of persisting policy and regulatory differentiation in the era of convergence (Storsul & Syvertsen 2007)
• Our claim: national differences between Nordic countries challenge the thesis of policy and regulatory convergence
• Questions:
  – Can we talk about the Nordic model in media policy and regulation?
  – Does Finnish development lend support to the theses on the new paradigm and policy convergence?
  – What happens after the dissolution of sector-based regulation of media and communication?

• Starting points:
  – Historical study of the differences (and similarities)
  – Methological toolkit: new institutionalism
Main concepts

• Media sectors (industries)
  – Print media (newspapers, magazines), electronic media (radio, TV), telecommunications (telephony, data networks), recorded media (music, movies), the Internet

• Path dependence:
  – The strength of the historical constraints which condition the function and development of an organization – “history matters”; market, technology, profession, method of production

• Policy transfer:
  – Takes place when a certain policy, originated in a certain country (or polity), is planted and adopted – either willingly or imposed – in another country

• Multiple/policy streams:
  – Relates to a concept of decision making which does not agree with the rational decision making model. Instead, policies are outcomes of the interaction between three streams which are relatively independent of each others
# Media sectors and their regulatory principles

<table>
<thead>
<tr>
<th>The medium</th>
<th>Foundational regulatory principles</th>
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<tbody>
<tr>
<td>Print media (newspapers, magazines)</td>
<td>Freedom of the press (FoP)</td>
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<tr>
<td>Electronic media (radio, TV)</td>
<td>Public Service Broadcasting (PSB)</td>
</tr>
<tr>
<td>Telecommunications (telephony, data networks)</td>
<td>Universal Service Obligation (USO)</td>
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<td>Recorded media</td>
<td>Copyright (with limitations)</td>
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<td>The Internet</td>
<td>Freedom of Expression (FoE), Network neutrality (NN)</td>
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Towards convergence 1

1920-1930s
1950s
1990-2000s
2010s

The base
The print media
The base
Audiovisual media
The base
Recorded media
The base
Telecommunication

Convergence

Internet
Towards convergence 2

1920-1930s
1950s
1990-2000s
2010s

The print media
Audiovisual media
Recorded media
Telecommunication

Policy models (policy transfer)
3. Example: five phases in Finnish broadcasting

• The establishment of radio broadcasting (YLE, 1926-1934)
• The institution of television (1955-1958)
• The founding of commercial television (1985-1995)
• The digitalization of television (1995-2007)
• The reform of YLE funding (2009-2012)
Elements for analysis: assessing the tools

• Path dependency:
  – The definition of broadcasting as an institution in 1920/1930s appears to influence the decisions in the 1950s and even later:
    • Legislation
    • Political structures (centralisation)
    • Relations between other industries and actors
    • Cultural and social factors
  – After the early 1990s, a new path may have been developing, following more the line of telecommunications policy (EU influence)
• Policy transfer:
  – International developments were followed closely, especially the BBC
  – Although BBC and others were used in designing the policies, the outcomes were original Finnish compromises
  – Recently, the EU policies have been applied to promote the Finnish ICT industry (digi-tv; Broadband for all)
  – It seems that instead of direct policy transfer, adaptation to external influences and their active application for domestic aims
• Policy streams:
  – The examples point to the applicability of the policy streams approach (compared to rational decision making model):

1) The problem stream:
  – Internal fears; tensions between the industries; threats to high culture
  – Solution: an appeal to the *national* cause; Finnish patriotism

2) The policy stream:
  – From different alternatives, the centralised and state-centered choice appears to strongest one
3) The politics stream:

– The struggles are often fought as negotiations between established partners: the Government, Yle, commercial media, and the technology industry

– Negotiations usually end up to a parliamentary consensus – there is seldom any public critical debate
4. How to continue

• Next steps: to extend the analysis to other industries

• Questions for further study
  – How to fit the latest developments of digital convergence into this framework
  – Is the sector based analysis still a valid approach to study the media and communications policy?
  – How to address the normative challenge in the analysis – that media and communications policy should serve citizens’ democratic, cultural, and social rights?
• Many thanks!
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