Contentious Terrain in EU Information Society Policies: Media Pluralism and Freedom of Expression

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In an EU context, the benefits attributed to new communication technologies are many: the creation of employment and economic growth; the enrichment of cultural/political dialogue and civic engagement; and, the permeation of a sense of European identity across the region. However, in the face of an increased emphasis on economic competitiveness both globally and at the EU policy level, there exists an unmistakable convergent approach to audiovisual/communications, cultural and competition policies. Parallel to this is an upsurge of concern—voiced by, for example, the European Parliament—over media pluralism and freedom of expression. Although the virtues of safeguarding "media pluralism" and "freedom of speech" in a healthy democracy are axiomatic, in the face of current dynamics, their meaning is widely contested. The purpose of this article is to offer an analysis of recent EU Information Society (IS) policies in relation to media pluralism and freedom of speech.

Introduction

An increased emphasis on economic competitiveness at the EU policy level, coupled with the ever-growing role of information flows and new media technologies in the global landscape, necessitate a reconsideration of legislative and regulatory frameworks. In the current European conjuncture, there exists an unmistakable convergent approach to audiovisual/communications, cultural and competition policies. Parallel to this is an upsurge of concern—voiced by, for example, the European Parliament, NGOs, and various citizens groups—over media pluralism and freedom of expression. Although the virtues of safeguarding "media pluralism" and "freedom of speech" in a healthy democracy are axiomatic, in the face of market liberalization and technological change, they become concepts in need of revitalization. The purpose of this article is to offer an analysis of recent EU Information Society (IS) policies in relation to the questions they raise concerning media pluralism and freedom of speech. In the EU context, the benefits attributed to new communication technologies are many: the creation of employment and economic growth; the enrichment of cultural/political dialogue and civic engagement, and thus democracy; and the permeation of a sense of European identity across the region.

Due to the complexities inherent in EU policymaking (e.g. the relative roles of the supranational and national actors), the world of IS policies is, at times, mystifying and its rhetoric opaque. I will first ground the debate by offering a contextualized account of developments in the IS policy arena by taking stock of a number of documents, steps and initiatives of importance. This will be followed by a discussion of the academic discourses on pluralism and freedom of expression, based upon which I will offer some analytical points. My ultimate goal is to offer a deeper understanding of how the EU IS policy realm constructs visions of the new economy in relation to interconnected public interest issues such as media pluralism and freedom of expression.

EU Information Society Visions: General Scope

Since IS technologies started to take a foothold in the 1980s, a great volume of academic research has been produced on the subject of the "information revolution," information and communication technologies, convergence and resulting impacts (e.g. Castells 1996, 1997, 1998; Webster, 1995; Schiller, 1999; Golding, 2000; Kellner, 1999). A more sceptical approach and critical stance was sustained in the political economy tradition of communications research. The implications of market consolidation and the narrow policy aims put forth in relation to technology convergence were scrutinized from a variety of critical perspectives (e.g. Garnham, 1994, 1996; 2000; Calabrese and Burgelman, 1999).

Although it made a late start compared to its transatlantic neighbours and Asia-Pacific, the EU's efforts have been geared toward creating a competitive knowledge economy and an inclusive information society based on a number of conflicting tenets: rigorously competitive market-oriented media regimes, external and internal media plurality and equal access norms. Many in the field of media and communication studies have criticized the singularity of such policy-based notions of the new economy and information society. Castells and Himanen (2002), for example, note in their analysis of the Finnish synthesis of the Information Society and Welfare State (the so-called "Finnish model") that information society (IS) can exist in different political, economic and social models, and take different forms. They suggest that just as the Industrial Revolution took diverse shapes in the West, in the Soviet bloc and in the Far East, IS is not a uniform global phenomenon, but rather a long-term social and economic process contingent upon the dynamics present in given spatial and temporal contexts. A rich body of literature has also been produced (e.g. Preston, 2003; O Siochrú, 2004; Hamelink, 2003) within which the question of whether or not alternative visions of IS can or should exist, communication rights and communication society epitomizing one such vision. At the global level, during the UN World Summits on Information Society (WSIS) in Geneva (2003) and Tunis (2005) the very concepts of IS, communication rights, cultural diversity, access to information and freedom of expression, media concentration and a range of related notions were also opened up for debate, as was the level of control over IS exercised by a limited number of powerful architects. The EU, after the second phase of the Summit in Tunis, pleaded for freedom of speech as a mechanism to bridge the digital divide—although it should be noted that the EU participation in and response to the Summit did not go much beyond reaffirming the existing EU IS policy agenda.

What has underlain the EU IS policy rhetoric so far is an uneven power geometry that is comprised of various actors. As Harcourt (2002:4) observes in her analysis of European media regulation: "much of the driving force behind changes in national policies is EU industrial policy." As she further discerns, the media industry, in the 1980s and 1990s,

was perceived as the remedy for unemployment and a decline in economic growth. The Commission's later attitudes toward and expectations of the growing centrality of IS technologies in everyday life ran parallel to this vision. In addition to the growing importance of media industries, the emergence of new media technologies, particularly of the Internet, as an immensely powerful force in the 1990s (coupled with ubiquitous and ambitious competition from the United States and Asia-Pacific) resulted in a realignment of focus in the EU media and communication policy domain from traditional audiovisual systems and related issues to ICTs and convergence. In response to a global move toward deregulated market structures and commercialized activity in communications, the (infamous) Bangemann Report (1994) argued in favour of streamlining the EU information sector based on private sector funding and consolidating the related EU policy framework to establish a competitive single market environment (Christensen 2006).[1] Regulatory complexities brought about by convergence and efforts to tackle this challenge characterised EU IS policies throughout the 1990s. Also worth mentioning is the "Green Paper on the Convergence of the Telecommunications, Media and Information Technology Sectors and the Implications for Regulation: Toward an Information Society Approach" (EC 1997), in which various responses to rapid convergence were contemplated. The main objective of this seemingly interrogative document was to address what convergence entailed and to stimulate debate on likely regulatory approaches to be adopted. An inclination, however, toward minimizing regulation and pulling audiovisual services closer to the domain of IS was evident in the rhetoric of the document. In the following years, various discussions ensued within the Commission—particularly Directorate General Information Society and Directorate General Education and Culture—and among stakeholders across the region. In 1999, as a culmination of this intense discussion and negotiation process, the Commission issued a Communication ("Principles and Guidelines for the Community's Audiovisual Policy in the Digital Age"), in which a watchful but calm attitude toward the contingencies of technological change was assumed. Overall, while the earlier EU policy scope of the 1990s focused on market restructuring (liberalization & reregulation) and macro dynamics, concern over socio-cultural issues found their way into policy considerations, particularly due to a rapid migration of content onto new media and tendencies toward concentration of media ownership in the commercial environment.

At the 2000 Lisbon summit, which centred around information society issues, the heads of EU Member States resolved to become "the most competitive and dynamic knowledge-based economy in the world" (EC, 2000a). To benefit fully from the potential economic and social riches offered by IS technologies, the *E-Europe Action Plan* was initiated in June 2000. The main intention of the action plan, and the preceding *E-Europe* initiative launched in 1999, was to accelerate "the uptake of digital technologies across Europe" and to "ensure that all Europeans have the necessary skills to use them," (EC, 2000d). Three interlinked methods were identified to reach these goals: Accelerating the setting up of an appropriate legal environment on a European level; supporting new infrastructure and services across the region;[2] and applying the open method of co-ordination and benchmarking (2-3). The potential of ICTs, and particularly of the Internet to increase employment and to restructure the economy were highlighted as part of the initiative, pointing to the need to create a competitive European market and skilled labour.

In 2002, *E-Europe 2002* came to an end and the *E-Europe 2005* action plan succeeded it, mainly focusing on Internet connectivity, further economic productivity and quality and accessibility of services for all European citizens based on a secure broad-

band infrastructure. *E-Europe-2005* centred around combining the social and the cultural with the economic, with increasing European competitiveness as a whole being the major driving motive (Christensen, 2006). And, in the epochal fifth enlargement process to integrate ten plus two countries, the EU has assigned a central role to the information society, as noted at the European Ministerial Conference in June 2002: "At this crucial moment in Europe's political development, we underline the importance of the Information Society in increasing social and cultural cohesion and in strengthening economic integration" (3). While it should be noted that the EU Commission realigned the heavily techno-deterministic policy approach of the 1990s (particularly in the domain of market deregulation) in favour of a more human-centred IS rhetoric in the latter half of the 1990s and 2000s—social inclusion was indeed more integral to the discourse of the later policies—'market' still retained its dominance over 'social'.

In the 2000s the Commission's response to the ever-increasing convergence of traditional and new media realms has been a gradual move toward engineering a convergent policy regime in order to merge the two formerly-distinct fields within a uniform policy scope for the purposes of maximizing economic gain.[3]

The urgency of dealing with economic stagnation and the severity of the growth and employment related problems experienced especially by larger European economies were reflected in the relaunched Lisbon strategy agenda of the Barosso administration in 2005 and economic growth and employment were declared to be the top priorities for the EU. Cultural policies and new media and content sectors gained paramount significance at this time—although the primacy of the cultural sector had long been acknowledged since the 1980s—as they were attributed an explicitly greater role in ensuring the future of European competitiveness and social wellbeing.

As the *E-Europe 2005* Action Plan came to an end in 2005, the head of the DG Information Society and Media, Viviane Reding, put forward a new initiative in June 2005. *i2010: A European Information Society for growth and employment* was designed to realise the goals of the new Lisbon Strategy and to "build towards an integrated approach to information society and audiovisual media policies in the EU" (EC, 2005: 3), the primary aim being to ensure the compatibility of a multitude of content services and technologies. Within the scope of *i2010*, "a single European information space", a number of regulatory mechanisms and various other instruments are utilized together to regulate: 1) the networks, and, 2) content available via these networks (through the current *TWFD* and the recently adopted *AVMS* Directive; Copyright and Digital Rights Management; instruments regarding web accessibility).

Media Pluralism and Freedom of Speech in the European IS: A Contentious Terrain

Due to increasing economic globalization, questions regarding the changes to apply to, and continuities to prevail within, key social and political institutions such as the nation-state, public sphere and citizenship have been paramount since the 1980s. As Sassen (2003: 42) observes, for example, the sociopolitical and economic forces at play today are destabilizing the institutions of nation-state and citizenship: "Through their destabilizing effects, these dynamics are producing operational and rhetorical openings for the emergence of new types of political subjects and new spatialities for politics". In historically market-based national economies such as the United States, media and communication policies have been primarily informed by the business volume available domestically, the projected demands/perceived needs of the consumer society and input

from civil society actors. In European welfare state regimes, traditionally, the state has been seen as the guarantor of rights and entitlements for all citizenry, and the legitimacy of national policies have been historically measured against notions such as citizen's rights, inclusive public spheres, freedom of speech, social benefits, sustainable consumption, and the like. Within the past few decades, due to both increased globalization, as Sassen surmises, and to the persistence of techno-capitalistic industry policies (including media and communications), this perceived responsibility has been seemingly shifting toward the economic enterprise and competitive dynamics, thereby (potentially) destabilizing sociopolitical institutions and undermining the normative grounds for public interest concerns and policy actions.

Europe is a particularly complicated case in this regard. The moral and political foundations upon which the EU has been built are undoubtedly liberal democracy, freedom of speech and a universal understanding of human rights and human dignity. Yet, as Ward (2002) argues, the process of increased integration raises the problem of legitimacy in governance, "as a directly accountable set of institutions responsible to the public is currently absent" (1). Ward points out that a democracy gap exists between the EU institutions and suggests that this deficit has become one of the most significant criticisms of the EU by both those who are pro-EU and those who favour national sovereignty over EU rule.

Differences in approach to public interest issues between the EP and the Commission and the inability of the Commission to draw support from stakeholders to establish legitimate grounds to safeguard media pluralism and freedom of expression through supranational regulation is emblematic of this problem. The 1990s were characterised by various efforts and initiatives within the EU to devise a common, effective, all-encompassing definition of media pluralism. There were no concrete outcomes, despite the efforts of the European Parliament.[4] The 1992 "Green Paper on Pluralism and Media Concentration in the Internal Market: An Assessment of the Need for a Communitarian Action" (EC, 1992) was debated for a long time and was lobbied against by a number of powerful industry actors. While some media owners had been in favour of a supranational framework to safeguard external pluralism earlier in the 1990s, due to the opportunities offered by a liberal environment they later tended toward opposing EU intervention in this area. The "Issue Paper Media Pluralism: What Should be the European Union's Role?" (EC, 2005b), which came out of the Liverpool Audiovisual Conference, did not lead to consensus among the stakeholders involved regarding the prospect of intervention at the supranational level.

The absence of a binding supranational social act such as an EU Constitution and the principle of subsidiarity also make it difficult to impose common normative principles. EU governance is very complex, and the resulting process causes ambiguity and hierarchy in the mutual roles of the Commission (and the DGs), Council of Europe and the European Parliament vis-à-vis the national governments and market actors. There are a number of key legislations at various institutional levels in play, such as the European Convention on Human Rights (ECHR) Article 10 and Article 11 of the Charter of Fundamental Rights that safeguard freedom of expression. While ECHR Article 10 stipulates that the right to freedom of expression is protected by public authorities, it also provides grounds under which the exercise of freedoms may be subject to formalities, conditions/restrictions or penalties as prescribed by law in a democratic society in the interests of national security, territorial integrity, public safety, prevention of crime, protection of health and morals or

of the reputation of others and of confidential information. Article 11 of the Charter of Fundamental Rights refers also to freedom of information, and therefore freedom of press and communications, as a fundamental right and stipulates explicitly that the freedom and pluralism of the media should be respected. However, as media pluralism remains a diversely interpreted norm, and since the formalities and conditions (as grounds for restricting freedoms) referred to in ECHR Article 10 allow for a wide range of interpretive possibilities on the part of states, the EU currently lacks the legislative capability to guarantee media pluralism and freedom of speech at a supranational level.

As Sarikakis and Chakravartty (2006: 114) note, "the legitimacy of the IS vision rests on the articulation of ideas and the construction or apprehension of the 'facts' by the various institutional actors engaged in the practice of shaping policy." During the 1990s, we witnessed governmental attempts to organically and structurally link IS discourse and economic globalization with that of welfare regimes in explicit ways, with the UK being the most prominent example. As Hudson (2003) observes, the Labour Party crafted a narrative in which ICT-driven transformation and the role of technology in economic prosperity were central components: a signpost in the rhetoric of the "Third Way." By suggesting that IS necessitates discontinuities with the past, the Blair government rationalized the desertion of traditional egalitarian policies, creating policy tensions regarding the direction of the welfare state in the UK. Via certain discursive strategies, decision-makers at the EU Commission have also argued in favour of conceding to the supremacy of market forces. The EU-engineered meta-narrative of IS legitimizes the vision of a competition-driven European knowledge society where the market, not elected governments, takes care of social and cultural obligations for the most part, with the state acting as a mediator. As a result, the historically "public" nature of media pluralism and freedom of speech are challenged and they emerge as contentious terrain between the various interests and claims represented by supranational, national, market and public power nodes (see Figure 1).
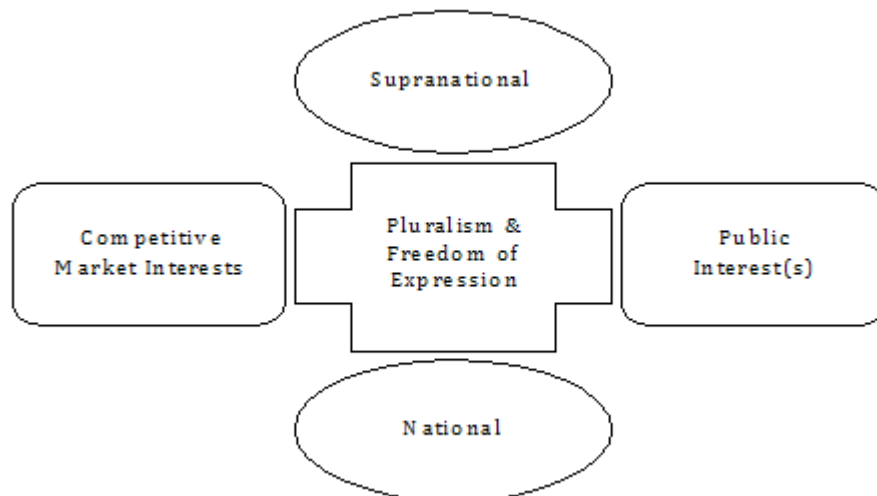

Figure 1. Media Pluralism/Freedom of Expression Power Dynamic

In the framework of existing IS directives, media pluralism is inferred—e.g. provisions regarding frequency allocations; universal access; media literacy—rather than explicit. The regulatory scope of new media and electronic communications is comprised of

five Directives which provide the framework for electronic communications in the EU[4] and, unsurprisingly, these Directives are limited in scope in terms of addressing issues related to pluralism and freedom of expression—national regulatory bodies are given the responsibility for ensuring that cultural and linguistic diversity is promoted and consumers are protected. Primarily, the framework is an instrument designed to tackle economic regulation and it seeks to protect the consumer through legal obligations pertaining to privacy and data protection, universal service and user rights, and does not deal with content services other than in specific cases of bundled content and communications services. In June 2006 the EU Regulatory Framework for electronic communications networks and services was reviewed and the results were documented in a Communication (EC, 2006). The 2006 Communication notes that, overall the regulatory framework has been successful in achieving the policy goals and addressing new technologies.

Recent Initiatives

i2010: A European Information Society for growth and employment actions are evaluated and the upcoming actions/issues identified in the form of annual reports. The most recent Annual Report (EC, 2007c) makes note of a couple of recent actions pertaining to pluralism and freedom of expression, one being the Ministerial Conference "ICT for an Inclusive Society" held in Riga in June 2006.[5]

The declaration that was adopted delineated a number of priorities to address disadvantages arising from geographic isolation and old age. It also listed priorities for the enhancement of eAccessibility, digital literacy, cultural diversity and inclusive eGovernment services, and the protection of pluralism and freedom of expression was noted as an important element for an inclusive European IS.[6] As noted in the 2007 Annual Report, The Commission Staff Working Paper on Media Pluralism (EC, 2007b) represents another action taken within the scope of *i2010* action plan. In response to growing concern on the part of the European Parliament, NGOs and other interest groups over the concentration of the media and its probable impact on pluralism and freedom of speech, the Commission issued a working paper in January 2007 concerning media pluralism in the EU Member States. The initiative was labelled the "Reding-Wallström" approach, and Wallström (2007d) declared that "Communication—understood as a lively and civilized debate among citizens—is the lifeblood of democracy." Maintaining the Commission position for a hands-off approach, the initiative refrains from showing the institutional will to adopt a common legislative framework at the supranational level. Instead, it introduces a three-step approach to *monitor* media pluralism and freedom of speech across Member States through an independent study and to issue a Commission Communication thereafter on the indicators to be put to public consultation.[7]

At their September 2007 meeting, the Committee of Ministers of the Council of Europe also adopted a number of recommendations for EU Member States concerning digital content (CoE, 2007). The main goal of the Recommendation is to promote freedom of expression and information in the new media environment, and it is meant to provide guidance—for developing data collection and storage standards; providing equal access; and the labelling of potentially harmful content.[8] The document calls for the private sector and Member States to strike a fair balance between "the right to express freely and to impart information in this new environment and respect for human dignity and the rights of others." It also suggests that "the right to freedom of expression may be subject to formalities, conditions and restrictions in order to ensure proportionality." The

Recommendation was met with a variety of reactions. European Digital Rights (EDRI), for one, heavily criticized the Recommendation and started a campaign against it on the grounds that it promotes self-regulation and soft legal instruments, leaving too much scope for business-friendly interpretations (EDRI 2007).

The new *AVMS* Directive is in the process of being transposed into national regulation between the end of 2007 and 2009, and the national questions and issues arising from it remain to be seen. As it is, and akin to its precursor *TWFD*, the new *AVMS* Directive falls short of directly addressing media pluralism and freedom of expression, and it mostly deals with which new advertising rules to apply. During the lengthy process of crafting the new directive the EP and a number of civil society organizations (such as those representing consumer groups or independent media organizations) argued in favor of a stricter regulatory framework for safeguarding pluralism and freedom of expression. The final document makes a cursory reference to protecting media pluralism and freedom of expression, and gives the mandate to national governments to guarantee the independence of national regulatory authorities.

Regulatory Challenges in the New Media Environment

As Klimkiewicz (2005) notes, EU audiovisual policy in general oscillates between supporting a common European media space through supporting large European media actors, and supporting pluralism and diversity. Clearly, the growing centrality of information society and new media services poses further and fundamental challenges for policy-makers at the EU level in relation to concepts such as pluralism and freedom of speech. The available regulatory scope for IS policies pertaining to media pluralism and freedom of speech (e.g. ownership regulations or universal service provisions) falls in large part under external pluralism. Content regulation—for the purposes of, for example, increasing diversity (and thus pluralism)—in the case of early national radio and TV was simply a question of monitoring a predetermined amount of broadcast content. The volume of material was limited due to bandwidth and licensing restrictions, and thus many broadcasters operated under public service or quasi-public service provisions. Such provisions dissolve when applied to the Internet. The sheer volume of material online, coupled with the de-centralized and de-territorialized nature of the web with regard to production, distribution and exhibition, renders moot traditional approaches to internal pluralism. Although some new media services (such as TV-like services) will be subject to content regulation within the scope of the new *AVMS* Directive, the definitions of pluralism and freedom expression in the EU IS rhetoric remain very basic and far from adequate in addressing the complexities inherent therein.

As Cooke (2006: 366-367) discerns, the EU was much slower in addressing issues related to Internet content in the IS regulatory framework due to a lack of supranational constitution, of other legally binding mechanisms and to a wide variety of—often conflicting—positions and interests as voiced by various social actors. Content control also poses jurisdictional and cultural quandaries. The absence of supranational instruments to deter tendencies to interpret freedom of expression as a negative right at the national level is particularly problematic. As Cooke observes, despite the problems inherent in regulating as large and unwieldy a medium as the internet, the desire on the part of national governments, corporations, media companies and individuals to monitor and regulate "harmful" or "offensive" media has led to "the adoption of a number of policy measures at institutional, national and international levels, with the expressed intention

of monitoring and controlling access to, and dissemination of, such content" (362). As Karppinen (2006) notes, issues such as media pluralism, diversity and free speech can be hijacked at the national level for ulterior political motives and "the values and meanings associated with pluralism and diversity are open-ended and subject to continuous process of social negation," (64).

As an example of the fluidity of concepts such as diversity and freedom of speech, in early 2006 a newspaper (*SD-Kuriren*) linked to a Swedish right-wing nationalist party posted copies (to its online edition) of the controversial Danish cartoons of the prophet Mohammed. The host carrying the site, Levonline, after being contacted by representatives of the Swedish State Department and the Swedish secret police, decided to remove the site (*BBC News*, 10 February, 2006). Both the State Department and the secret police denied issuing a direct order to Levonline to remove the pages in question, but did point out to the host that the presence of the cartoons could prove a security risk, particularly to Swedish interests abroad. The then Swedish Foreign Minister, Laila Freivalds, suggested that the cartoons constituted a form of public provocation, but that particular reason was not given for the closure of the pages, and a number of legal scholars in Sweden had concluded that the cartoons had not, in fact, constituted hate speech. The controversy around the case led Laila Freivalds to resign on the grounds that as a minister she obstructed the freedom of the press (*SVD*, 21 March 2006). A hate speech charge was filed against the newspaper but deemed unfounded by the Swedish attorney general (*SVD*, 10 February 2006). In a similar case involving an EU candidate state, the Turkish courts blocked access to the YouTube video-sharing site for 48 hours following the posting of videos (from users in Greece) with content suggesting that the founder of the Turkish Republic, and Turkish citizens in general, were homosexuals (*The Guardian,* 7 March 2007). The clips were deemed to have violated Article 301 of the Turkish Penal Code, under which it is illegal to insult either the memory of Ataturk, or Turkishness. As these cases illustrate (within EU-member and candidate contexts), legal and non-legal perceptions of "harmful" or "offensive" content can vary:

> Since the definition of what is considered harmful content is dependent on the cultural traditions and moral beliefs of users, the variety of what is considered harmful content is 'limitless'. The EU was aware that such wide variations make it impossible to formulate a common regulatory framework without infringing the fundamental right to freedom of expression of some groups. The European Parliament discussions, as well as the Commission documents, promoted self-regulation as being able to adapt to the different needs and act across legal and cultural traditions. The EU, however, kept back from pointing out how self-regulation could actually bridge the different cultural and legal traditions. (Bonnici & de Vey Mestdagh, 2005: 136)

The problems illustrated by the Swedish and Turkish cases point to the need for a reconsideration of binding mechanisms to foster freedom of expression as a positive right. Halpin & Simpson (2002) make a similar observation when they write that the EU's approach to Internet governance is "mixed" and that "its provisions are loosely specified giving considerable discretion to Member States" (288).

Although the EP has tried to sustain a normative scope for public interest goals, the Commission, especially the current DG IS and Media under Commissioner Viviane

Reding, is inclined toward equating media pluralism with a liberal market consisting of multiple economic actors and freedom of expression with mere access to the medium (through provision of physical access and media literacy). The overall approach to internet regulation is described by Cooke (2007) as "multi-faceted" and one in which legal instruments, the "shaping of technical architecture" (e.g. the promotion of filtering software), the "manipulation of cultural norms" (e.g. through educational initiatives) and, finally, self-regulatory mechanisms are all used (371-2). In terms of Internet content in particular, self-regulation by industry actors stands out as the dominant regulatory instrument favoured by the Commission. Yet, the use of market-driven regulation and/or self-regulation is, in and of itself, a contentious issue. At its most fundamental level, criticism of such regulation is based on the fact that it presumes a form of "market neutrality" through which competition simply "produces" pluralism, choice, diversity, freedom of speech, and so on. Such an assumption ignores the fact that, as Karppinen (2006) writes, "the market itself is a politically designed institution, not a homogenous, unstructured and unregulated natural entity," and that, "the actual shape of the markets must always be crafted by political and legal regulation and it hardly emerges spontaneously as a neutral mediator of civil society" (63).

Final Remarks

In the current alignment of IS policy, which van Cuilenberg & McQuail (2003) label the "third phase" of media policy paradigm shifts, the EU leaned toward regulation favouring the interests of businesses and markets over publics and citizens. The Commission's approach to questions of media pluralism and freedom of expression is characterised more by caution than vigour. And, the convergence of cultural and media/communications policies with competition policies motivates national governments to prioritize the latter rather than safeguarding a public interest approach to the former. IS technologies at large, and particularly the Internet, constitute a significant terrain onto which communications of various forms migrate. As such, safeguarding media pluralism and freedom of speech in this terrain involves safeguarding the wellbeing of the public sphere. Media pluralism merits as a positive condition to the extent that it contributes to communicative democratic practices. When it is taken to mean the plurality of available commercial actors in the market – with the hope that the multiplicity of actors will amount to diversity and plurality of voices – it becomes an ambivalent attribute. In the EU, the coexistence of a competitive single market *with* public interest concerns and priorities calls for not only an effective convergence of technological infrastructures and regulatory policies, but also for a convergence of minds around common ground in order to safeguard fundamental norms such as media pluralism and freedom of speech.

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Notes:

1 It should also be noted that the overstated emphasis placed on the primacy and immediacy of convergence—and hence the necessity to include broadcasting in the domain of competition-based ICT policies—during Bangemann's tenure at the DG IS was later balanced out by a more careful, evolutionary

approach by the Commission.

2 It is noted here that "Developments here depend mainly on private sector funding. Such activity may be supported with European funding, but much depends on action by Member States (ibid:2).

3 Community law currently conceives of 'broadcasting services' and 'information society services' as separate The former refers to a program transmitted to the receiver (push) in the form of free-to-air or pay-TV. The latter involves content accessed (pull) by the user.

4 Directive on a common regulatory framework for electronic communications networks and services (Framework Directive); Directive on the authorisation of electronic communications networks and services (Authorisation Directive); Directive on access to, and interconnection of electronic communications networks and associated facilities (Access Directive); Directive on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive); and Directive concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications). Added to these was the regulatory framework for radio spectrum policy.

5 For further information on the list of actions between 2005 and 2007, see Commission Staff Working Document accompanying document to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions i2010 - annual information society report 2007, SEC 2007, 395.

6 Article 23 reads: "Fostering pluralism, cultural identity and linguistic diversity in the digital space. Promoting digitization, the creation of accessible digital content, and wide and cross-national access to digital information and cultural heritage in support of European integration. Fostering multilingual and local content throughout Europe, as well as European values of freedom, tolerance, equality, solidarity and democracy. ICT innovation and good practice exchanges at all levels are important means to achieve this" (Ministerial Declaration, 11 June, Riga Latvia).

7 The indicators being: policies and legal instruments that support pluralism in Member States; the range of media available to citizens in different Member Sates; and, the supply side indicators on the economics of the media.

8 The Recommendations point to the public service aspect of the Internet. Guideline IV reads: "Access to the new information and communications environment facilitates the exercise of their rights and freedoms, in particular their participation in public life and democratic processes." Member States are encouraged to safeguard these rights and freedoms by providing public access to the Internet; ensuring provision and transparency of online services of public institutions; and, by providing online public services in a variety of languages.