Chapter 8

The illusion of pluralism
Regulatory aspects of equality in the new media

Judit Bayer

This chapter examines some normative regulatory aspects of furthering equality in the media. From the perspective of legal regulation, equality is a normative concept that is dependent on many social and economic factors. Legal regulation alone may achieve only limited results in this area. This chapter focuses on various aspects of pluralism and diversity as factors that have the potential to advance equality in the media. To approximate this ideal, the efforts of all actors in society are needed, including the users themselves,[1] journalists, state regulators and international policy makers. A new set of actors emerged in the era of Web 2.0 media: platform providers as facilitators and gatekeepers of spontaneous citizen communication. Equality in publishing and accessing information online raises issues regarding the rights and responsibilities of gatekeepers. The roles and responsibilities of these actors have not been crystallized yet.

Freedom of expression is one of the prerequisites of democracy. Deliberative democracies cannot operate without open, public discussion of social matters. To pursue valuable public discussions, access to public information is also needed, along with the possibilities and capacities to exercise these rights. Participation in discussions on common-interest matters must be wide enough and citizens need to be well informed to achieve a meaningful level of discussion.

The media traditionally did not provide the possibility for everyone to publish their ideas, and this produced regulatory theories regarding the responsibility of the media to be representative of all sides in society, which became part of the concept of media pluralism. The traditional media structure functioned as an automatic filtering mechanism: only views that withstood the scrutiny of editors (and other participants in the process, including media owners) could be published. The content was mostly created by media professionals, such as journalists and cameramen, or at least coordinated by studio anchors. In many ways, the content became more relaxed, spontaneous and perhaps entertaining, and in retrospect it is clear that the mediated content rep-

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1. In this paper, the audience of various types of media, including viewers, listeners, consumers, readers and so on, will be called "users" generally.

resented the elite's opinions and positions. Even if it targeted non-elite social groups, it was mediated and filtered through the lens of a financial and/or intellectual and, in some cases, political elite.

In contrast, social media allow everyone – without filters and mediation – to express their voice in writing, pictures and videos. No educational "census" or media literacy are required: in fact, even a small child can create a video and upload it on Facebook with three taps on a smartphone. This creates vast potential for equality with respect to participating in public discussion, and cyber-optimists indeed dreamt of a global participatory democracy without central governance (Barlow, 1996).

The reality is sobering: there are many voices, but there is not one big audience (McQuail, this volume, chapter 2). The scope of attention is limited, and non-transparent algorithms and filter bubbles influence the consumption of media content (Sunstein, 2009). Under these conditions, the established (mainstream) media's role in selecting the voices that it deems worthy of representation is even more important. Because of the so-called network effect (Barabási, 2002), also called the "Hollywood effect" by Karol Jakubowicz (2015), the greater prevalence particular content has, the more attention it will acquire, growing like a snowball. The voices that are already popular will be amplified, while others may vanish. What is more, entering the "attention" market becomes difficult despite the low costs of publishing (Barabási, 2002; Jakubowicz, 2015).

The new structure of public discourse has yet to be studied. A new cause for concern is the emergence of organized political manipulation disseminated online by way of disinformation and populism (Engesser et al., 2017; Martens et al., 2018; Russell, 2016). Such manipulation exacerbates the existing inequalities in media literacy as well as cultural and economic capital and targets the most vulnerable online audiences to cause social tensions in democracies (Lessenski, 2018). Planting the seeds of hostility, democratic societies are thereby threatened with political turmoil and decline in the protection of human rights (Agarwal et al., 2017).

The relationship between media pluralism and equality

A strong correlation can be established between the discourse on media pluralism and that on inequalities. When examining the constituents of media pluralism, several elements can be distinguished: diversity of media outlets, media genres and representation as well as access to publication by minorities and diverse social groups, political independence and concentration of media ownership.

In one approach, media pluralism can be divided into three layers: *macro*, *meso* and *micro*. The macro layer is the level of ownership, the meso layer refers to the regulatory and other public organizations on the media market and the micro layer means the plurality of content (Czepek et al., 2009: 46). In the new media environment, research has shown that a new aspect of pluralism has emerged and become relevant: exposure

to diverse content (Helberger, 2011; Napoli, 2011). Exposure is dependent partly on the selective choices of the user and partly on the algorithm that selectively recommends content to the audience (see below for more detail) (Möller et al., 2018). The issue of exposure diversity has been widely researched (Helberger, 2011; Hitchens, 2011; Napoli, 2011). This aspect of diversity assesses the diversity of the content actually accessed by the user from the plurality of choices. Therefore, the pluralism of access, or exposure diversity, could be introduced as the fourth layer of pluralism, in addition to the existing three elements. From this perspective, the third and fourth layers show the extent to which users actually access diverse content, whereas the macro and meso layers are tools to achieve this end (McQuail, 2000; Van Cuilenburg, 2000).

Describing the macro and meso layers as "tools" does not mean that they are not equally important preconditions for realizing a diverse media offer and equal access to content. However, equality in the media – equality of access to content and of the chances to be heard – can theoretically exist without plurality at the ownership and regulatory levels but not without plurality at the content and access levels. The former has been observed in rare cases, for example when a responsible content policy of the dominant media outlets – whether commercial or public – ensures diversity of content, without the plurality of the market itself (Dobek-Ostrowska, 2012). Still, as Edwin Baker held, relinquishing the claim for market plurality would be a luxury: "source diversity – effectively ownership dispersal – is directly, substantively central". Baker adds that, even if there is no evidence that the output of content is always more divergent with diversity of ownership, having a concentrated media ownership structure is a risk that "no democracy should afford. Commonly, commentators (wrongly) believe that the ultimate concern must be content and viewpoint diversity – with other differences being merely instrumental to this goal" (Baker, 2006: 15). While all layers of pluralism increase the likelihood of promoting equality in the field of media, they may still be insufficient in fully ensuring equality.

The media studies literature distinguishes between external and internal media pluralism. External pluralism describes the nature of the entire media system within a certain market (or society). Internal pluralism may refer to the balanced content of a certain medium: namely that it represents a broad variety of viewpoints, is impartial and does not bend to one specific opinion or position (Czepek et al., 2009: 47). However, in a converging media environment, these distinctions are becoming blurred as the units of examination become unclear. For example, a broadcaster – even one that is public in nature – may publish several thematic channels (Jakubowicz, 2015: 43).

The Centre for Media Pluralism and Media Freedom at the European University Institute has developed and uses a set of indicators to measure the level of media pluralism in European states. In the first year, the indicators were cultural diversity, geographical diversity and diversity of media types and genres. In subsequent years, however, these were replaced by a single indicator of social inclusiveness. Social inclusiveness is composed of the following measures: access to media for different social and cultural groups and local communities, availability of media platforms for

community media, access to media for physically challenged people, centralization of the media system, universal coverage of the public service media and the internet, and media literacy. All of these factors contribute to the realization of equality.

Through qualitative questionnaires, the research measured how the values mentioned have been realized in various countries. The best score was achieved in the realm of "access to media for the physically challenged people" and the lowest (highest risk) in the realm of "media literacy" (Centre for Media Pluralism and Freedom, 2018). The study delivers quantified data based on the questionnaire and thus makes the level of pluralism across European countries visible and comparable.

The role of regulation in fighting inequality in the media

Media regulation cannot tackle all the elements of pluralism equally. While ownership concentration and regulatory bodies have been traditional objects of regulation, content and access especially are more difficult to influence with state instruments. It could be argued that, if the "hard" part of pluralism – the technical conditions for a diverse offer – is ensured, the "soft" part – content and access – has a much better chance of ensuring equality of access to content, including online content. Equality of internet access includes the capacity to upload and download content without discrimination.

Pluralism regulation (macro level)

National media regulations at various levels can ensure diversity of ownership, sources and content. The following statements are based on a study carried out in 2016 on six member states of the European Union (EU).[2] Most of the states studied have specific rules limiting ownership concentration in the media, while others have only general competition law regulations (Bulgaria). A tendency of liberalization can be observed in some states (France and Hungary) in the form of policy aimed at helping the industry to flourish under declining financial circumstances. Although cross-media concentration is regulated in most countries, diagonal or conglomerate ownership concentration is generally unregulated (Meier & Trappel, 1998: 41, 42). In the context of this study, diagonal or conglomerate ownership concentration is understood as the intertwining of media enterprises with other industrial or business sectors. These sectors are most typically related to construction but also include banking, energy, tobacco, postal distribution and defence. As all of these economic activities are connected to strategic state policies or the state budget, such ownership concentration puts the political independence of the partner media enterprises into question (Bárd & Bayer, 2016: 56, 91).

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2. Bulgaria, Romania, Poland, Hungary, Italy, France and Greece. For the selection criteria, please see the original study: Bárd and Bayer (2016).

One tool to prevent media concentration is merger control, which is exercised by either the media regulatory authority or the competition authority or by the two authorities in a combined procedure (Hungary) (Bárd & Bayer, 2016). Beyond the ownership of media enterprises, the concentration of media distributors can also be regulated, for example with cable and internet service provider (ISP) companies. This field is relatively concentrated in most states, with no more than three or four big companies dominating a market, often with a local monopoly limiting the choices of consumers (Bárd & Bayer, 2016).

The internet content market is more diverse and typically has a "long tail" (Anderson, 2010) in the sense that innumerable small content providers add colour to the online scene. Traditional big media companies tend to have strong positions in the online content market as well, but overall the competition is stronger.

While several European states have rules against ownership concentration in the media, this does not prevent inequalities in media representation or in access to the media. In addition, even though the media market is becoming increasingly international, the regulation of anti-concentration remains national. This is almost ironic in the context of the European common market, where competition law falls exclusively under the competence of the European Union. How is it possible that no common pluralism rules have yet been passed? Although the issue has repeatedly been put on the agenda (Bárd & Bayer, 2016: 24-31), none of the initiatives have resulted in legislative action – even though the Commission had concrete plans to issue a Communication as part of a three-step strategy (European Commission, 2007). The possible reasons for this are manifold.

First, any regulatory change restricting media concentration will obviously disadvantage the media incumbents and their political allies. Hence, change depends largely on political interests and not only on rational arguments (Collins & Cave, 2013: 312). However, defining the interests of the stakeholders is not a straightforward exercise: the political, economic and public interests in the field of media freedom and pluralism within the EU make for a complicated mix.

Second, basic questions are disputed not only at the political level but also in scholarship. No generally valid benchmark can be established to define the desired level of concentration. Concentration can be measured in relation to several aspects: vertical and horizontal concentration, cross-media concentration and diagonal or conglomerate concentration. There is no scientific consensus about the ideal situation, which also differs according to the population, market size, GDP and cultural traditions (Iosifidis, 2010).

Ideally, a common European regulation should be based on a common standard for assessing concentration. However, the chances that states will agree on which model to use are slim: the audience share model, the market share model, the license holder share model, the capital share model or the revenue share model? Further issues need to be settled as well, such as the scope of anti-concentration measures, the criteria used to define the thresholds and the enforcement procedures and mechanisms limiting

the number of licenses or imposing a ceiling on the total number of shares that can be controlled by a single person or company, limiting the market share, and so on (Nikoltchev, 2004; Valcke, 2009). States are also divided over the issue of restricting media ownership of political parties and organizations.[3]

Media pluralism lies at the intersection of economics, law and social science. In the field of regulation, it touches on competition law, state aid and market regulation but also on cultural policy and, crucially, fundamental rights and democracy. Even the incentives for regulation are contradictory: the European Commission wants the EU market to be globally competitive with the transatlantic media industry; this would require strong private actors, which would not support diversity. Some member state governments, however, prefer to maintain smaller companies out of fear of competitors in political influence. This creates a highly complicated network of conflicting interests, often with contradictory expectations (Bayer, 2018).

As if this was not enough, digitalization causes dramatic transformation in the media market, a process that makes the industry a moving target; the convergence of media platforms, the interrelations of international markets and the hardship in defining substitutable products complicate the definition of the legally relevant market.

Regulatory bodies and public service media (meso level)

Traditionally, the role of regulatory bodies was to distribute frequencies and ensure that the content of electronic media was lawful and diverse. In the age of abundant digital cable channels, the power of regulatory bodies became more limited: they distribute frequencies on the radio market and regulate the distribution of television channels. In this role, regulatory bodies should take the issue of equality into consideration, and most states do impose must-carry obligations on their distribution networks. The European Union's (2002) Universal service directive requires that such obligations may only serve legitimate public policy considerations or general interest objectives where the interest of access by disabled users is explicitly mentioned.[4] State regulation of public service media can be listed at the meso-level layer as an entity with a defining presence in the media market.

According to the original public service ethos, public service media is the branch that serves the ideals of equality best: it must represent societal minorities, be universally accessible and ensure a high moral and professional quality. However, in some member states of the European Union, public service media still carry the characteristics of public service media under authoritarian regimes, operating under

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3. Some countries (Austria, Belgium, Bulgaria, Denmark, Germany, Greece and Hungary) exclude political actors from acquiring broadcast licenses or impose obligations of political independence on broadcast organizations, while others (Cyprus, Finland, France, Italy, Sweden) do not impose such restrictions at all. In Malta, the three political parties all own their own radio stations and the two largest parties even own their own television station. See Valcke (2009: 26).

4. See Article 31 and preamble 43 of Directive 2002/22/EC.

government pressure and lowering their professional standards to serve particular political interests (e.g. Bulgaria and Hungary).

From the 1990s, the European Union started to regard media services as economic services, which led to the recognition of public service broadcasting as being dependent on state aid. State aid is, however, generally prohibited in the EU by the Treaty on the functioning of the European Union (Articles 107-109 TFEU) (consolidated version, 2012)[5] and allowed only under strictly defined exceptions. The European Commission issued a Communication in 2001 (updated in 2009) to interpret the EU legal approach to lawful forms of state aid (European Commission, 2009).

The resulting principles and requirements in relation to providing state aid in the European Union are respected in several states, including France and Italy, following encounters with the European Commission in this area (European Commission, 2005a, 2005b, 2008, 2010, 2013).[6] Other countries, for example Hungary, Bulgaria and Poland, do not appear to take notice of the guidelines in the European Commission's Communication on state aid to public service broadcasting (Bárd & Bayer, 2016). The specific issue of efficacy and transparency of financial management is widely regarded as problematic in many states, for instance in Romania but also in France (although the overall compliance with the Communication is better). Financial mismanagement, corruption or clientelism is often suspected. After the 2011 media reform in Hungary, public service broadcasting was reorganized and provided with adequate financing (approximately €268 million in 2016). Nonetheless, there is evidence of breaches of journalistic standards for the sake of disseminating untrue information for political purposes (Mérték Médiaelemző Műhely, 2015; Nolan & Walker, 2018). The Hungarian public service media (MTVA) are directly supervised by the head of the regulatory authority, directly appointed by the prime minister.[7]

Public service television and channels that enjoy must-carry status are the primary news source for users in low-income, low-education areas who cannot afford subscription-based television channels. As a result, equality in regard to access to information is greatly influenced by the quality of these channels, as social groups with low financial and cultural capital do not have access to subscription-based television services or printed press, or even internet access in some cases. Therefore, social equality will be negatively affected if public service television and other must-carry channels are of low quality and politically biased.[8]

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5. "1. Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market" (Article 107(1) TFEU).

6. For more, see http://ec.europa.eu/competition/sectors/media/decisions_psb.pdf.

7. Article 136 Sections (6), (10), (11), (14) and (16) Mttv.

8. Public service radio is not discussed here. It should not be underestimated from the perspective of equality – however, it is not subject to EU regulation and is therefore omitted from this chapter.

Regulatory aspects of the content level of diversity (micro level)

The internet brought an expansion of publication possibilities that increased the chance for all would-be voices to be heard (McQuail, this volume, chapter 2). All potential content was brought into the home of the citizen – a diversity incomparable to that of television. Beyond that, it became possible to publish with very low entry costs in the form of intermediary platforms, such as comments, posts, blogs, pictures and videos. In addition, the culture of communication is getting increasingly visual, enabling the posting of content even by those who cannot read and the overcoming of language barriers. Each and every citizen became capable of participating in the public discussion, which appeared to contribute to the realization of the dream of full democracy. The practically general access to the public sphere for all citizens even raises the issue of whether this access could even be regarded as a human right (Bayer, 2018).

The drawbacks are that many content threads are not relevant to the public discourse and that the scarcity of attention creates a new limit to participation. In addition, intolerance, hatred, populism and fake news have gained embarrassing popularity in this public sphere. As a result, democratic dialogues are hampered and democratic values and electoral processes become endangered (Russell, 2016; Wardle & Derakhshan, 2017). Although internet technology could enable the greatest realization of participatory democracy, we are witnessing online public communication leading to a decline in the functioning of democracy. A lack of scarcity and easy access create enough room for all content, even minority or local content, including independent, experimental media. This feature has recently been misused to spread disinformation and hateful messages for the sake of political manipulation. According to a research study, the most vulnerable part of the population to such manipulation is the same social group that has lower education, lower income and lower media literacy (Lessenski, 2018). The global inequalities described by McQuail are thus maintained, partly fuelled by the network effect (Barabási, 2002) that is generated by the great content aggregators and facilitators, such as social media platform providers and search engines that channel content directly to the users.

In the first wave of internet regulation, it became obvious that restricting unlawful and harmful content with the existing legal instruments is becoming increasingly difficult. The immense amount of content, the lack of borders and distance and the flexibility of communication – including the low investment required for republication and anonymity –made it close to impossible for state regulation to control the publication of, and access to, illegal content.

To date, some measures have consequently been invoked to facilitate the regulation of illegal content. China and other autocratic countries have installed a filter wall on all the internet traffic entering the country and constantly monitor all of it. The German approach opts for co-regulation by setting up a system that is consequently enforced within the country according to the principles of law and not disturbed by the fact that foreign information that is considered illegal in Germany is available anyway.

The recent legal approach by the Estonian and Hungarian national courts and by the European Court of Human Rights (Delfi v. Estonia, ECtHR, 2015; MTE and Index v. Hungary, ECtHR, 2016) as well as the proposed amendment to the AVMS Directive regulating online platform providers (European Commission, 2016, Art. 28) would outsource the task of regulation to platform providers that transmit third-party content. This has the potential to restrict the equality of citizens by restricting the possibility to publish ideas and creative content through the social media and intermediaries, for example in the comment sections. The restrictions imposed by the mentioned court decisions have led to the abolition of comment sections below articles in journalism (see more on the liability of platform providers below).

Regulatory aspects of access and exposure (micro level)

Even though the internet can offer a vast diversity of content, users are unable to enjoy the whole spectrum, because their time and attention capacity are limited. This scarcity restricts the perception of content; in fact, attention scarcity diminishes access to pluralistic content to an even greater extent than concentrated ownership (Helberger et al., 2015). In an age of overabundance of media content, media reception achieved greater equality in theory (McQuail, this volume, chapter 2). Access to online content is practically not limited by economic factors in the first world. However, the selection of media content largely depends on decisions made by the individual, limiting the diversity of content actually accessed. The selection is often not the result of rational deliberation but reflects the socioeconomic and educational status of the user and thus perpetuates existing inequalities (Prior, 2007). Users tend to favour content that confirms their prior beliefs and that is recommended by their acquaintances. In addition, content selection algorithms try to copy earlier selections made by users and offer content similar to what the users appear to have liked before. This keeps users in content bubbles (Napoli, 2011; Valcke, 2011). As shown, exposure diversity has a human factor (individual choices) but also a technological factor (algorithms and network speed).

Algorithms are neutral technology: their purpose is designed by their programmer. Currently, most algorithms are programmed to serve commercial purposes. They are praised for serving users' interests, but, by remembering and amplifying users' selection decisions, they isolate users from diverse sources of information. Users become confined to their "echo chambers", fostering the development of extremism. Although some research results are controversial, there is evidence of group polarization or "cyberbalkanization" (Barberá, 2015; Dutton et al., 2017; Iványi, 2014; O'Hara & Stevens, 2015). While minority representation has better chances on the internet, such content has slim chances of being accessed by majority users. Rather than embracing the whole diversity of culture, numberless subcultures may develop and exist in parallel.

Because of the advances in visual communication, literacy is less of a requirement to access new media. However, a new barrier creates inequality within society:

knowledge of foreign languages. The internet brought the global media into the room of the citizen, but, for the illiterate or those who cannot speak or read English (or Chinese, the second-biggest language of the internet), the options remain severely limited (Miniwatts Marketing Group, 2018; Young, n.d.). Whether this inequality can be changed with translating software remains to be seen.[9]

Citizen publishing through new gatekeepers

Since about 2003, Web technology has reached a second phase that some have dubbed Web 2.0. Although the name has since faded, it characterizes a new stage in network development. The publishing of thoughts, ideas, facts and creative works through online platforms has become everyday practice, particularly for the young generation. Besides creating content, citizens produce technological tools, widgets and apps that communicate ideas and knowledge (DeNardis & Hackl, 2015: 768).

Equality of the media includes equal access to publishing through the media. Content aggregators and facilitators of content, however, have the power to amplify or suppress information that is published by various users. As a result, access to the audience is not equal but currently governed by these new gatekeepers, for example the social media platform providers and search engines that use algorithms to further their commercial interests. Current regulatory attempts try to hold these actors responsible for the content transmitted – thereby placing even more power in their hands.[10] Under the German Network Enforcement Act and the proposed AVMSD Platform, providers would have the legal responsibility to prevent illegal and harmful content from being transmitted.

This chapter argues that the fundamental right to free speech would best be served if platform providers were obliged to remain neutral intermediaries and to make their content selection algorithms transparent – at least at the level of principles. The present regulatory developments provide the power (and responsibility) of discretion to these private, commercial entities, which are not supposed to have the discretion to make decisions regarding citizens' content. Without disputing the necessity of regulating manifestly illegal speech, citizens would – under the currently proposed scheme – lack constitutional protection or redress against the removal of lawful content. It may appear practical for governments to "outsource" the burden and cost of regulation to private actors. Platform providers may also prefer this active participation rather than potentially being subjected to legal regulation (Brown, 2010: 7). Nevertheless, sparing the constitutional burden of restricting speech would almost certainly lead to over censorship without constitutional guarantees for citizens. From the perspective of

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9. It should be noted that the internet has accelerated the globalization of cultures and communication and stimulated the language acquisition of internet users.

10. See *Gesetz zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken* [Act on Network Enforcement] (2017) and Articles 28(a) and (b) of the European Commission (2016) Directive proposal. France passed a law against fake news in 2018, as did Italy.

fundamental rights, gatekeepers of public information and innovation would possess the power to restrict public discussion without being accountable to citizens. Currently, there are several interfaces through which gatekeepers exert direct power over online rights, such as privacy, freedom of expression and access to information (DeNardis & Hackl, 2015: 769). These private intermediaries have become vital components of the digital public sphere and practically exercise control of civil liberties. Their design and internal rules have direct implications for communication rights, such as access to information and freedom of expression. Their situation could be compared to that of shopping malls: "they offer free public access and a place to engage in expressive activities, they operate as a virtual public forum" (Peters, 2017: 1000). In the American free speech jurisprudence, it has been declared that shopping malls are similar to public spaces, even though they are privately owned; the same applies to company towns or their respective areas that are open to the public. As a result, the exercise of free speech enjoys First Amendment protection in these locations (Amalgamated Food Employees Union Local 590 v. Logan Valley Plaza, 1968; Marsh v. Alabama, 1946), although the case law is not entirely homogeneous in this sense (see more in Peters, 2017). Another analogy from American law could be the status of common carriers; social media companies are comparable to common carriers, because they serve as gatekeepers of citizen communication. The Web allows anyone to publish their content, but practically this is performed through platform providers (1), and no content can be found without search engines (2). This makes them comparable to common carriers; hence, they should be obliged to act neutrally and indiscriminately, similarly to ISPs, which provide access to internet traffic. Nevertheless, recent turmoil in the field of net neutrality in American legislation shows that this debate has not been settled yet (Finley, 2018). In addition, the practice of the European Court of Human Rights is contradictory (Appleby & others v. the United Kingdom, ECtHR, 2003).

Conclusion

The changing media environment has improved the potential for two important aspects of media equality: publishing and accessing of media content. In recent years, negative side effects of this development have arisen. Despite the endless content, the new scarcity of attention hampers the fulfilment of the media's democratic function. Although the variety of content has grown, so have the possibilities of selection. The engendered echo chambers reinforce and create new social clusters through media consumption, bolstering social inequality.

Legal regulation and policy in the field of new media are, so to say, in experimental phases: no stable principles of regulation have materialized, and the role of social media providers in particular has yet to be formed. Legislators have an eye on industrial competitiveness, on stimulating innovation and, to some extent, on respect for fundamental rights. Equality is not apparent amongst the objectives of regulatory plans.

References

Agarwal, N., Bandeli, K., Bertolin, G., Biteniece, N. & Sedova, K. (2017). *Digital hydra: Security implications of false information online*. NATO StratCom Centre of Excellence. Retrieved from https://www.stratcomcoe.org/digital-hydra-security-implications-false-information-online [accessed 2019, January 18].

Amalgamated Food Employees Union Local 590 v. Logan Valley Plaza, Inc. 391 U.S. 308 (1968).

Anderson, C. (2010). *The long tail: How endless choice is creating unlimited demand*. Random House.

Appleby and Others v. The United Kingdom. App. 44306/98 ECtHR (2003, May 6).

Baker, C. E. (2006). *Media concentration and democracy: Why ownership matters*. Cambridge University Press.

Balčytienė, A., Bajomi-Lázár, P., Štětka, V. & Sükösd, M. (2015). Oligarchization, de-Westernization and vulnerability: Media between democracy and authoritarianism in Central and Eastern Europe. A roundtable discussion. *Journal of Media, Cognition and Communication*, 3(1): 119-141.

Barabási, A.-L. (2002). *Linked: The new science of networks*. Perseus Publishing.

Barberá, P., Jost, J. T., Nagler, N., Tucker, J. A. & Bonneau, R. (2015). Tweeting from left to right: Is online political communication more than an echo chamber? *Psychological Science*, 26(10): 1531-1542.

Bárd, P. & Bayer, J. (2016). *A comparative analysis of media freedom and pluralism in the EU Member States: Study for the LIBE Committee*. Policy Department C: Citizens' Rights and Constitutional Affairs. Retrieved from http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571376/IPOL_STU(2016)571376_EN.pdf [accessed 2019, January 18].

Barlow, J. P. (1996). *A declaration of the independence of cyberspace*. Davos. Retrieved from https://www.eff.org/cyberspace-independence [accessed 2019, January 18].

Bayer, J. (2018). Media freedom and pluralism: Legislation and enforcement at the European level. *Journal of the Academy of European Law* 19(1): 1863-9038. https://doi.org/10.1007/s12027-018-0508-5.

Brown, I. (2010). Beware self-regulation: Short-sighted government and industry action is threatening online freedom of expression. *Brave New Words. Index on Censorship*, 39(1): 98-106.

Centre for Media Pluralism and Freedom. (2018). *Media pluralism monitor*. European University Institute. Retrieved from http://cmpf.eui.eu/media-pluralism-monitor/ [accessed 2019, January 18].

Collins, R. & Cave, M. (2013). Media pluralism and the overlapping instruments needed to achieve it. *Telecommunications Policy*, 37(4): 311-320.

Consolidated version of the Treaty on the functioning of the European Union. (2012). *Official Journal of the European Union*, C326: 47-199.

Czepek, A., Hellwig, M. & Nowak, E. (2009). *Press freedom and pluralism in Europe: Concepts and conditions*. Bristol, UK/Chicago, USA: Intellect Books.

Delfi v. Estonia, App 64569/09 ECtHR (2015).

DeNardis, L. & Hackl, A. M. (2015). Internet governance by social media platforms. *Telecommunications Policy*, 39: 761-770.

Dobek-Ostrowska, B. (2012). Italianization of the Polish media system? In D. C. Hallin & P. Mancini (eds.), *Comparing media systems beyond the Western world*. Cambridge: Cambridge University Press.

Dutton, W. H., Reisdorf, B., Dubois, E. & Blank, G. (2017, May 1). *Search and politics: The uses and impacts of search in Britain, France, Germany, Italy, Poland, Spain, and the United States* (Quello Center Working Paper No. 5-1-17).

Engesser, S., Fawzi, N. & Larsson, A. O. (2017). Populist online communication: Introduction to the special issue. *Information, Communication & Society*, 20(9): 1279-1292. doi: http://doi.org/10.1080/1369118X.2017.1328525.

European Commission. (2002). Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (universal service directive). *Official Journal of the European Union*, *L108*: 51-77.

European Commission (2005a). Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty. Cases where the Commission raises no objections. (2005/C 235/03). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2005.235.01.0003.01.ENG&toc=OJ:C:2005:235:TOC. [accessed 2019, February 21].

European Commission (2005b) Prior notification of a concentration. (Case COMP/M.3894 — Unicredito/HVB) (2005/C 235/04) Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2005.235.01.0003.01.ENG&toc=OJ:C:2005:235:TOC. [accessed 2019, February 21].

European Commission. (2007). Media pluralism: Commission stresses need for transparency, freedom and diversity in Europe's media landscape. *Press Release Database*. IP/07/52.

European Commission. (2008). *Aide d'Etat N 279/2008 – France: Dotation en capital pour France Télévisions*. C(0208)3506 final. Brussels.

European Commission. (2009). Communication from the Commission on the application of State aid rules to public service broadcasting. *Official Journal of the European Union*, *C257*: 1-14.

European Commission. (2010). Decision on State Aid C 27/09 (ex N 34/B/09) Budgetary grant for France Télévisions which the French Republic plans to implement in favour of France Télévisions. *Official Journal of the European Union*, *L59*: 44-62.

European Commission. (2013). Authorisation for State aid pursuant to Articles 107 and 108 of the TFEU. *Official Journal of the European Union*, C363: 2.

European Commission. (2015). Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (text with EEA relevance). *Official Journal of the European Union*, L310: 1–18.

European Commission. (2016). *Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in member states concerning the provision of audiovisual media services in view of changing market realities.* COM(2016) 287 final. Brussels.

European Commission. (2017). *Legal framework conditions applicable to State aid to public service broadcasting.* Europa. http://ec.europa.eu/competition/sectors/media/decisions_psb.pdf.

Fenton, N. (2018). Fake democracy: The limits of public sphere theory. *Javnost – The Public*, 25(1/2): 28-34. doi: http://doi.org/10.1080/13183222.2018.1418821.

Finley, K. (2018, May 17). Senate votes to save net neutrality, but hurdles remain. *Wired* [online]. Retrieved from https://www.wired.com/story/senate-approves-measure-to-save-net-neutrality/ [accessed 2019, January 18].

Gesetz zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken (Netzwerkdurchsetzungsgesetz – NetzDG) 2017 (Ger.). [Social network enforcement act]. Retrieved from https://www.gesetze-im-internet.de/netzdg/BJNR335210017.html. [accessed 2019, February 21].

Helberger, N. (2011). Diversity by design. *Journal of Information Policy*, 1: 441-469.

Helberger, N., Kleinen-von Königslöw, K. & van der Noll, R. (2015). Regulating the new information intermediaries as gatekeepers of information diversity. *Info*, 17(6): 50-71.

Hitchens, L. (2011). Media regulatory frameworks in the age of broadband: Securing diversity. *Journal of Information Policy*, 1: 217-240.

Iosifidis, P. (2010). Pluralism and concentration of media ownership: Measurement issues. *Javnost – The Public*, 17(3): 5-21.

Iványi, M. (2014). Közösségi média: A nyilvánosság elektronikus agorája vagy posztmodern panoptikum? *Médiakutató*, 2: 119-138.

Jakubowicz, K. (2015). New media ecology: Reconceptualising media pluralism. In P. Valcke, M. Sükösd & R. Picard (eds.), *Media pluralism and diversity: Concepts, risks and global trends* (pp. 23-53). Palgrave Macmillan.

Lessenski, M. (2018). *Common sense wanted: Resilience to "post-truth" and its predictors in the New Media Literacy Index* 2018. Open Society Institute. Retrieved from http://osi.bg/downloads/File/2018/MediaLiteracyIndex2018_publishENG.pdf [accesses 2019, January 18].

Marsh v. Alabama, 326 U.S. 501 (1946).

Martens, B., Aguiar, L., Gomez-Herrera, E. & Mueller-Langer, F. (2018). *The digital transformation of news media and the rise of disinformation and fake news: An economic perspective* (JRC Digital Economy Working Paper 2018-02). Retrieved from https://ec.europa.eu/jrc/sites/jrcsh/files/jrc111529.pdf [accessed 2019, January 18].

McQuail, D. (2000). *Mass communication theory* (4th ed.). London: SAGE.

McQuail, D. (2018). *Equality: An ambiguous value*. Written for the Amsterdam meeting, March 2017. Amsterdam.

Meier, W. A. & Trappel, J. (1998). Media concentration and the public interest. In D. McQuail & K. Siune (eds.), *Media policy: Convergence, concentration and commerce* (pp. 38-59). London: SAGE.

Mérték Médiaelemző Műhely. (2015). *Bevált Módszerek, Új Haverok – Lágy cenzúra a magyar médiában 2015* [The methods are old, the cronies are new]. Retrieved from http://mertek.eu/2016/05/05/soft-censorship-hungary-2015-3/. [accessed 2019, February 21].

Miniwatts Marketing Group. (2018, June 2). *Internet world users by language – Top 10 languages*. Internet World Stats. Retrieved from https://www.internetworldstats.com/stats7.htm [accessed .

Möller, J., Trilling, D., Helberger, N. & van Es, B. (2018). Do not blame it on the algorithm: An empirical assessment of multiple recommender systems and their impact on content diversity. *Information, Communication & Society*, 21(7): 959-977. doi: https://doi.org/10.1080/1369118X.2018.1444076.

MTE and Index v. Hungary, App 22947/13 ECtHR (2016).

Napoli, P. M. (2011). Exposure diversity reconsidered. *Journal of Information Policy*, 1: 246-259.

Nikoltchev, S. (ed.) (2004). *IRIS special: Television and media concentration – Regulatory models on the national and the European level*. Strasbourg: European Audiovisual Observatory.

Nolan, D. & Walker, S. (2018, April 13). Hungarian journalists admit role in forging anti-migrant "atmosphere of fear". *The Guardian* [online]. Retrieved from https://www.theguardian.com/world/2018/apr/13/hungary-journalists-state-tv-network-migrants-viktor-orban-government [accessed 2019, February 21].

O'Hara, K. & Stevens, D. (2015). Echo chambers and online radicalism: Assessing the Internet's complicity in violent extremism. *Policy & Internet*, 7(4): 401-422.

Peters, J. (2017). The "sovereigns of cyberspace" and state action: The First Amendment's application – or lack thereof – to third party platforms. *Berkeley Technology Law Journal*, 32: 990-1029.

Prior, M. (2007). *Post-broadcast democracy: How media choice increases inequality in political involvement and polarizes elections*. New York: Cambridge University Press.

Sunstein, C.R. (2009). *Republic.com 2.0*. Princeton University Press.

Russell, M. (2016). *Russia's information war: Propaganda or counter-propaganda?* (EPRS European Parliamentary Research Service. Members' Research Service PE 589.810). Retrieved from http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/589810/EPRS_BRI(2016)589810_EN.pdf [accessed 2019, February 21].

Valcke, P. (2009). From ownership regulations to legal indicators of media pluralism: Background, typologies and methods. *Journal of Media Business Studies*, 6(3): 19-42.

Valcke, P. (2011). Looking for the user in media pluralism regulation: The potential and limits of regulating exposure diversity. *Journal of Information Policy*, 1: 287-320.

Van Cuilenburg, J. (2000). Media diversity, competition and concentration: Concepts and theories. In E. de Bens (ed.), *Media between culture and commerce*. Intellect Books.

Wardle, C. & Derakhshan, H. (2017). *Information disorder: Toward an interdisciplinary framework for research and policy making* (Council of Europe Report DGI(2017)09). Retrieved from https://rm.coe.int/information-disorder-toward-an-interdisciplinary-framework-for-researc/168076277c.

World Association of Newspapers and News Publishers. (2013). *Capturing them softly: Soft censorship and state capture in Hungarian media*. Retrieved from http://mertek.eu/sites/default/files/reports/soft_censorship_angol.pdf [accessed 2016, June 15].

Xenos, M., Vromen, A. & Loader, B. D. (2014). The great equalizer? Patterns of social media use and youth political engagement in three advanced democracies. *Information, Communication & Society*, 17(2): 151-167. doi: http://doi.org/10.1080/1369118X.2013.871318.

Young, H. (n.d.). The digital language divide. *The Guardian* [online]. Retrieved from http://labs.theguardian.com/digital-language-divide/ [accessed 2019, February 21].