

Audiovisual Economics: Audiovisual Markets in the European Union

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Abstract

Focusing on economic aspects of audiovisual industries, this article analyses some of the key EU policy initiatives affecting the sector –the AVMS Directive; the MEDIA Programme; competition and state aid for PSB; and also media ownership and pluralism– in the context of changing technologies and changing markets in Europe. It is notable that the policy ambitions surrounding audiovisual media are varied and do not always pull in the same direction. This article examines the threats and opportunities caused by digitisation and new value chain configurations but argues that conflicting agendas remain a substantive challenge for policy-making at EU level.

Keywords

Audiovisual economics; digitisation; EU policy; competition; pluralism.

Resum

Aquest article analitza, centrant-se en els aspectes econòmics de les indústries audiovisuals, algunes de les principals iniciatives polítiques de la UE que afecten el sector –la Directiva sobre serveis de mitjans audiovisuals, el programa MEDIA, la competència i els ajuts estatals per al servei públic de radiotelevisió, així com la propietat dels mitjans i el pluralisme– en el context de l'evolució tecnològica i l'evolució dels mercats a Europa. Es pot destacar que les ambicions polítiques entorn dels mitjans audiovisuals són molt variades i no sempre van en la mateixa direcció. L'article examina les amenaces i les oportunitats ocasionades per la digitalització i per les noves configuracions de la cadena de valor, però sosté que les agendas en conflicte continuen sent un desafiament fonamental per formular polítiques en l'àmbit de la Unió Europea.

Paraules clau

Economia audiovisual, digitalització, política de l'Unió Europea, competència, pluralisme.

Introduction

According to the European Commission, “the single European market is one of the biggest achievements of European integration, and applies to television broadcasts as anything else” (CEC, 2007a: 8). Yet, as evidenced by a worsening trade deficit between the US and Europe, many audiovisual production and distribution businesses within Europe remain relatively fragmented and under-capitalised and struggle to compete internationally. This article focuses on key elements of audiovisual policy - the Audiovisual Media Services Directive; the MEDIA Programme; competition and state aid for PSB; and also media ownership and pluralism – in the context of changing technologies and changing markets in Europe. It examines the threats and opportunities caused by digitisation and new value chain configurations, but argues that conflicting agendas surrounding audiovisual media remain a substantive challenge for policy-making at EU level.

Audiovisual refers to television production and television broadcasting plus film and is an area that has attracted some

quite active policy-making at European level over recent decades. Any close reading of the policy documents, speeches and statements that have emerged from differing DGs of the Commission over the years on audiovisual-related issues confirms that certain core themes tend to recur with great regularity. One abiding concern is the competitiveness of European audiovisual industries and the need for a legislative framework that maximises “economic growth and the potential creation of jobs” (Europa 2005). But the cultural and social dimensions of audiovisual are also recognised. Culture is regarded as a vital asset and so, as argued by the EC Vice-President for the Digital Agenda, “it is essential that our cultural diversity must be defended tooth and claw (*bec et ongles*)” (Kroes 2010).

Audiovisual media are regarded as an economic growth area (KEA 2006: 115). Audiovisual is a key component of “cultural and creative industries” and, in the context of the Lisbon 2010 framework, was seen as important catalyst for wider economic growth (CEC 2007a). Likewise audiovisual, as a component of what is now termed the “digital economy”, is imbued with high hopes of how it may contribute to the “Europe 2020” strategy of economic revitalisation and growth (Barber 2010, CEC 2010a; 2010c). The audiovisual sector “directly employs over

one million people in the EU" (CEC 2011a) and so is seen as an important sector for Europe in economic terms (i.e. employment, opportunities for wealth creation etc). So one concern evident in EU policy documents and statements is a wish to foster the development of strong European players that can compete more effectively against the strength of audiovisual suppliers from the US and elsewhere.

But, as well as creating prosperity, the role that cultural sectors such as film and television play in sustaining identities and promoting tolerance and social cohesiveness is well recognised at European level (CEC 2007a: 2). One of the aspirations that surfaces fairly regularly in policy documents is that of safeguarding indigenous European languages and cultures. Also there is the desire to promote pluralism and diversity. Audiovisual media are key to these sorts of policy aims too.

So, the ambitions surrounding policies for audiovisual media are varied and they do not always pull in the same direction. But, to some extent, the array of priorities and wishes shaping audiovisual policy simply reflect the wider purposes that lie behind the creation of the EU in the first place which are, also, somewhat multi-sided. The motivation for Union within Europe is in part political and based around a fundamental desire to stop European neighbours going to war with each other. However, the wish to create a common or a single market - to make all Member States partners (rather than competitors) in a collective trading block - has also been driven by economics. "Europe" is very much inspired by the economic and commercial benefits that may be garnered from expanded markets and the economies of scale they bring.

A key feature of the economics of supplying television is the presence of economies of scale which, in turn, stems from the unusual 'public good' characteristics of broadcast output (Doyle 2002a: 1-14). And, because of the potential to exploit inherent economies of scale, the prospect of an enlarged collective market for audiovisual products and services across Europe appears to hold out great promise, as acknowledged by DG Information Society and Media (CEC 2007a: 2):

"National boundaries must ... be crossed if Europe's digital content industry is to benefit from single market economies of scale"

But, despite globalisation, despite growth of the internet and despite success on the part of the Commission in sweeping away legislative barriers to the free circulation of broadcast and audiovisual services across member state boundaries, we seem no closer now to a "single" market in audiovisual than we were when the Broadcasting Directive was first agreed back in 1989. Cultural and linguistic variations across Europe provide a major part of the explanation for this. Far from moving towards a single market, European audiences have splintered and fragmented as new technologies have multiplied the available avenues for distribution. It is notable too that US-made rather than European work predominates in cross-border circulation of audiovisual content (EAO 2009: 164).

Focusing on economic aspects of some of the key EU policy initiatives affecting the audiovisual sector, this chapter explores the issues testing the Commission as it intervenes in this area. Changing technology represents one such issue but an enduring challenge stems from the tensions and conflicts that have long characterised the history of EU interventions in the audiovisual arena.

Changing technology

The nature of broadcasting is such that it has traditionally been regulated quite differently from other sectors. One reason for special treatment relates to the "public good" characteristics of broadcast output and the non-excludable and non-rivalrous nature of broadcast output which meant that, in the first instance, conventional methods of market support (i.e. direct viewer payments) would not have worked so an alternative funding system was needed. Another source of market failure in broadcasting stems from "externalities" –the negative effects imposed on society at large by supplying excessive amounts of content that is harmful (e.g. violent programming) or, conversely, the positive external effects of supplying the sort of content that benefits everyone. The misalignment between private costs (to the broadcaster) and social costs in broadcasting constitutes a market failure because it encourages the under-supply of some categories of output and over-supply of others that may engender negative externalities. And yet another concern with unregulated broadcasting markets is that, because of the presence of economies of scale, there is a tendency towards enlargement and accumulation of monopoly power (Doyle 2002a: 161-3).

The economic justification for regulation of broadcasting has become more questionable as new technologies have addressed some of these sources of market failure (Armstrong 2005). Thanks to cable and satellite, digital compression techniques and steady improvements in the underlying architecture of the internet as a means of delivering audiovisual content, spectrum scarcity has now given way to an era in which avenues for distribution of content are abundant. In addition, while advertising was the main source of market funding for broadcasting in the past, advances in encryption technology have allowed direct payments to emerge as an increasingly important stream of support for television. The spread of direct viewer payments implies that a well-functioning market in which allocation is determined by the forces of demand and supply has become more feasible. So, since viewers can now pay for what they want, the case in favour of publicly funded broadcasting or in favour of "distorted" funding mechanisms such as a universal tax to pay for television content is less compelling (Elstein 2004).

However, despite new technologies, there are still several ways in which it may be argued that an unregulated market would not allocate resources efficiently (Hargreave Heaps 2005). Certain forms of output that are widely seen as desirable and that confer positive externalities (e.g. educational programming;

arts and cultural output) are likely to undersupplied because, although this output contributes to the collective welfare of society, viewers on an individual basis may not be willing to tune in or pay for it in sufficient numbers to warrant the production and supply of it. And, in the absence of regulation, the tendency for television content that creates negative externalities to be oversupplied will still persist (Graham 1999). Even though we have many more channels and direct viewer payments, a free market may not supply viewers with what they want.

So it is widely (though not universally) accepted that, where audiovisual is concerned, interventions are still needed to counteract deficiencies arising from the free operation of markets. Intervention is needed, on economic grounds, to tackle market failures and the problem of externalities as well as to restrict the exercise of monopoly power by broadcasters. In addition, governments often intervene in broadcasting for non-economic reasons, though these are not the main focus here. The tools used most frequently to address market failures in broadcasting are public ownership (i.e. organising provision through state-owned entities such as the BBC) and regulation (i.e. encouraging private broadcasters to meet public requirements regarding content even where this means deviating from profit maximising behaviour).

However, the context in which regulation of broadcasting is taking place has changed dramatically. Helped along by progressive improvements in digital compression techniques, we have arrived in an era of so-called spectrum “plenty”. And, combined with the support offered by pay-TV, a proliferation of new distribution channels has brought many new competitors into markets for production and supply of audiovisual content. In the era of spectrum scarcity which prevailed until the 1980s, the role played by state authorities in awarding and renewing broadcasting licenses placed them in a powerful position in relation to determining who would have access to the airwaves and in controlling content. Nowadays, airwaves remain a precious national resource but as avenues for distribution have multiplied (and many now extend across national borders) broadcasting regulators are faced with some serious new challenges.

Although changing technology has generally served to open up broadcasting markets, in some cases new entry barriers have arrived caused by gateway monopolies – i.e. monopolists controlling the “gateway” between the broadcast or other supplier of audiovisual content and audiences (Cowie and Marsden 1999). One example of a gateway which might be monopolised is electronic programme guides (EPGs) - the navigation systems that viewers need as we get more and more channels, thanks to digital. UK regulator Ofcom, in introducing a code governing fair access to EPGs in 2004, acknowledged that “discriminatory treatment of a channel in terms of listings or presentation would constrain its ability to compete effectively with other channels for audience share and advertising revenue, and would thus be prejudicial to fair and effective competition” (Ofcom 2004:10). Another example would be control over the audiovisual media experience on mobile devices. As we progress towards having

more and more of our media and communications supplied to us either via a single hub or black box in the home or on the move via mobile devices, it is inevitable that more market power will be invested in the hands of owners of the management systems and navigation interfaces that steer us towards one set of content rather than another.

Growing use of the internet as an access point for media content has encouraged the development of a new generation of online players such as content aggregators, social networking sites and search engines who now have significant power to shape media choices and, in turn, consumption patterns. So, a major challenge for regulators is to recognize and address bottlenecks and monopolisation of gateways and access points so as to ensure well-functioning markets and the fair and open competition needed to sustain efficiency in the audiovisual industry.

Disintermediation is another phenomenon of the digital era which, on account of its potential to disrupt investment in media content production, is of potential concern for regulators. Advertising is an important source of support for many television broadcasters. But growth of the internet has encouraged a switch in patterns of investment by advertisers away from conventional media – especially newspapers and magazines but also including broadcasting. In 2009, some 27% of total advertising expenditure in the UK was accounted for by the internet, compared with just 1% a decade earlier (Ofcom 2010; AA/WARC 2009). It may be argued that the migration of audience attention and of advertising towards a new medium and away from others is really nothing new. For Schumpeter (1942), the process whereby some firms seize opportunities to innovate and profit from technological change while slow-footed market incumbents who fail to adapt lose ground and perhaps go out of business is not only natural but also a positive driver of growth in the economy. To the extent that what is taking place in the media sector at present conforms with this notion of “creative destruction” then it is fair to argue that public policy should not impede its progress. But what if the process at work is, as some have suggested (Liebowitz 2006), one of just “destructive” destruction rather than creative destruction?

Just as radio took audiences from newspapers and television took audiences from radio, the internet is taking audiences from other media. And naturally advertisers want to capitalize on the new consumption trends by investing more in the internet. As new platforms and delivery formats arrive and take over from old ones, the investment that advertisers are willing to make in media content ought to settle into new patterns supporting the more innovative new products and services or modes of delivery. But what happens when, instead of being reallocated towards new forms of content, advertising is simply siphoned off by intermediaries who are *not* investing anything in content creation? A problem that has hit the newspaper publishing industry hard and is also affecting audiovisual suppliers is that, where audience attention is monetized by a third party (e.g. an aggregator or search engine), there is less subsidy available

from advertisers to support content production and to constrain the direct charge to consumers. To the detriment of consumers as well as suppliers of content, disintermediation places downward pressure on the revenues needed to renew, improve and replenish the available stock of professionally crafted audiovisual and other media content.

Digitisation and growth of the internet have greatly added to the complexity of regulating audiovisual industries not only on account of the ways these developments have disrupted the value chain and transformed the interactions between suppliers and audiences but also because of how they have engendered more cross-border spillage of audiovisual products and services. In Europe a number of cross-frontier issues have cropped up, for example, in relation to content, technological standards and copyright. At times this has sparked controversy about the level – whether national or EU – at which audiovisual regulation ought to be taking place. One prominent example of a cross-frontier issue has been the Murphy case where a pub landlady in the UK, rather than paying high tariffs to BSkyB, instead chose to show English Premier League games using an imported satellite card from a Greek broadcaster and, in 2006, was fined £6,000 by a UK court for breach of copyright. When the case was appealed at European level, the European Court of Justice (ECJ), rather than upholding the national position, instead recommended a ruling in favour of the landlady (Fenton and Blitz 2011). The ECJ's reluctance to penalise re-transmission of services across European frontiers may be understandable, but on the other hand the prospect that audiovisual content owners may find it difficult in future to market their rights on a territory-by-territory basis has quite far-reaching commercial implications. The controversy engendered by the Murphy case underlines the potential, in an era of ever improving infrastructures for transfrontier distribution of audiovisual, for new regulatory dilemmas and for conflict between national and European-level intervention in audiovisual regulation.

Challenges for Regulation

The ways that historic conflicts and new technologies and market circumstances bear upon the economic regulation of audiovisual industries can be seen by examining some of the key elements of European audiovisual policy. This section provides a brief critical analysis of four important aspects of European regulation in relation to audiovisual: the AVMS directive; the MEDIA programme; competition and state aid for Public Service Broadcasters; and ownership and pluralism.

The Audiovisual Media Services (AVMS) Directive

The key EU broadcasting policy initiative so far has been Television without Frontiers (TVWF), a Directive on broadcasting first agreed by Member States in 1989 and that has since been updated and replaced by the AVMS Directive 2007. The general aim behind TVWF was to ensure that broadcast service provid-

ers can take advantage of the single European market (SEM) by being legally able to operate across frontiers in much the same way as service providers in any other industry. So, one of the fundamental principles of TVWF has been that broadcast services should comply with one and only one national law, i.e. the law of the national state from which they “originate”. Then, they should be free to circulate in all the Member States of the EU. But this requires compliance with a minimum set of common rules and standards and it these common rules – in the areas of content quotas, right to reply, protection of minors, advertising and sponsorship - that are set out in the Directive. Any channel licenced within an EU country and that complies with the minimum standards laid out in the Directive cannot then be blocked in another Member State.

When TVWF was reviewed after its first few years in operation, the process became mired in controversy about the indigenous European content quota: the requirement within the Directive which applies to all European broadcasters and says that at least 50% of transmission time needs to be reserved for works made in Europe. That conflict about how best to revise the European quota reflected a sort of contradiction that lies at the heart of media-related policy-making in Europe and that was exemplified in the TVWF Directive. On the one hand, *liberalization* is an important goal – removing barriers and scaling back “red tape” – because liberalisation is seen as the best means to foster growth, employment and commercial success in the European audiovisual industry. So the primary purpose of TVWF was to remove barriers to the cross-border flow of television. But at the same time, there is also a strong impetus towards intervention in the free market to protect European audiovisual content production, and this more *dirigiste* impulse is reflected in the compulsory 50% European content quota that forms part of TVWF (and latterly the AVMS Directive). TVWF reflects a clash between both the ambition to liberalise and the impulse to protect (Collins 1994).

The introduction of a new directive on AVMS in 2007 to replace TVWF was a direct response to changing technologies. Whereas TVWF was agreed at a time when there were only 47 television channels in the European Union, by 2005 the number of licenced channels across Europe was in the thousands. In addition, digital convergence and the arrival and growth of the internet had added new ways to distribute and consume television content. As well as as traditional “point-to-multipoint” scheduled broadcast services, viewers could now also receive a wide array of “one-to-one” or non-scheduled television content services – e.g. web-based on-demand services. The Commission was keen for European regulation to keep abreast of technology and so wanted to create ‘a level playing field’ and a platform-neutral approach for all audiovisual media services by, for the first time, bringing on-demand or ‘one-to-one’ television services within the scope of TVWF (CEC 2007b: 3). It wanted to extend regulation of television content to cover non-scheduled services as well as scheduled services.

There was, however, awareness that new audiovisual content

services (where the viewer has much more control over what is being received, where and when) are in some ways quite different from conventional scheduled broadcast services (where the viewer is a passive recipient). For the Commission, this distinction warranted a differentiated or two-tier approach to regulation of content. So, in the case of conventional broadcast services, the same sort of rules that applied under TVWF (on protection of minors, right of reply, quotas, etc) still apply today under the new AVMS Directive agreed in 2007. However non-linear services are subject to a reduced basic tier of regulation that, for example, excludes compulsory quotas for European-made content.

The new AVMS Directive can and has been criticised from a number of standpoints. One deficiency is that an approach in which some television content services are more lightly regulated than others hardly seems to constitute the “level playing field” the revised legislation was intended to provide. However the adoption of a two-tier approach was a necessary response to another set of concerns. Many influential voices in industry argued that extending the scope of EU regulation of audiovisual from broadcasting to include the internet was excessively *dirigiste* and would be harmful (MacKenzie 2006). Imposing the same rules on non-linear television services as apply to conventional broadcasters would create uncertainty, add to industry's costs, and hold back investment in new media services, thereby placing European players at a disadvantage next to rivals from US and Japan. So a two-tier approach seemed to find the right balance. But in other quarters the revised Directive was viewed as being too *liberal* in its approach. Alongside altering the definition of broadcasting, another notable change was that the 2007 Directive relaxed some of the earlier restrictions on advertising and product placement that had been contained in TVWF. For some, the AVMS Directive was too concerned with de-regulation and with supporting industry and commerce and not sufficiently attuned to issues of culture and citizenship (Wheeler 2007).

The MEDIA Programme

As well as the AVMS Directive, the other main plank of European policy on audiovisual content consists of direct interventions established by the Commission to try and help support indigenous production and to promote wider circulation of European-made works throughout the SEM. The MEDIA Programme which started back in the late 1980s and has since gone through a number of reincarnations has consisted of several funding schemes offering support for activities including training, script development, production and distribution. Although the amount invested in the Programme has increased over time, its overall level of funding remains quite limited bearing in mind the high cost of audiovisual production and the large number of Member States the programme is seeking to support. The current allocation of €755m to Media 2007-2013 works out at just €4m per Member State per year (CEC 2011b). However, a more glaring weakness with the MEDIA Programme – one that is

characteristic of European audiovisual policy in general – is that its main objectives seem to pull in two conflicting directions.

The objectives for Media 2007-2013 are, first, to preserve and protect cultural diversity (CEC 2011b). So this initiative is *dirigiste* in nature and intended to encourage wider dissemination to audiences of European-made audiovisual works than would be supported under free market circumstances. But, at the same time, a second key purpose of Media 2007-2013 is “to make the industry more competitive” (ibid) - to help re-structure the European audiovisual industry so that it can compete more effectively with US suppliers. Some might argue that the provision of public grants for programme-makers to produce culturally worthy content, whatever the socio-cultural merits of so doing, is more likely to delay and prevent the development of the necessary skills to compete in domestic and international markets than it is to foster improved competitiveness (Doyle 2002a: 165). The problem here is not so much that intervention is excessively driven by culture or by economic objectives per se but rather that its effectiveness is diluted to the extent that it is not sufficiently clear what exactly the MEDIA programme is fundamentally hoping to achieve.

Competition and State Aid for Public Service Broadcasters (PSBs)

Aside from content, the other main area where EU policy for the audiovisual sector has had a significant impact is competition. A number of EU rulings have emerged concerning, for example, bundling of television rights and or other forms of threatened or actual anti-competitive behaviour in markets for audiovisual. In the 1990s, the Competition Directorate was faced with a very large number of complaints and actions from commercial broadcasters across Europe who argued that the sizeable funding received every year by Europe's PSBs amounted to 'state aid' and therefore was in infringement of competition rules. State aid describes a situation where an administration finds reasons to, in some way, assist or give special financial support to particular businesses operating within their own national territories. It is about public authorities conferring advantages on a selective basis to local companies and is generally prohibited under EU competition law. So these complaints resulted in a debate amongst European parliamentarians about the legitimacy of state aid for PSBs which, in turn, brought about the introduction, via an addition to the 1997 Treaty of Amsterdam, of a clause that recognises the special nature of broadcasting and therefore excludes PSBs from normal EU controls over state aid. The so-called “Amsterdam Protocol” was formalised through a subsequent Communication on PSBs and State Aid in 2001 (CEC 2001)

However, the rapid pace of recent technological change in the media sector quickly called back into question the Commission's general approach on this issue. Growth of the internet and the spread of digital technology has resulted in many PSBs across Europe successfully extending the scope of their activities across new platforms, fixed and mobile (Enli 2008;

Doyle 2010). The migration of public broadcasters towards a more multi-platform approach has given rise to new concerns about market dominance and unfair competition, this time being voiced not just by rival broadcasters but also newspaper publishing groups and other media content suppliers. The concern is that PSBs use their public funding to invest not just in broadcasting (which is exempt from state aid rules) but also in new digital services (which are not exempt). The involvement of well-funded PSB players in new media services has a crowding out effect on commercial rivals thus holding back the competitiveness of the European commercial audiovisual sector in a wider global context.

The Commission's response was to bring forward a revised Communication on State Aid (CEC 2009). Under the revised rules, a new requirement has been introduced which means that each time a PSB entity decides it wishes to set up a "significant" new media service a test needs to be carried out. A transparent evaluation is required, prior to any launch of a new service, to assess whether that new service is really justified in terms of delivering some positive value to public and also to consider what impact it may have on market. The requirement for national authorities to carry out a test was intended to strengthen the accountability of PSBs and help avoid "mission creep" on the part of PSBs, with expansion taking place on the basis of vague and over-ambitious digitisation plans (Donders and Pauwels 2008).

The revised Communication on State Aid and PSBs has, for now at least, staved off criticisms about the exemption of PSBs from normal competition rules. However, some voices in industry have continued to express concern about the expansion of well-resourced PSB entities and have argued that the public value test lacks clarity and so is unlikely to be rigorous enough. From the point of view of newspaper publishers for example, the fact that PSBs are prolific suppliers of high quality news content that is available free of charge online has made it more difficult to erect paywalls around their own offerings. Another sort of concern raised is whether the costs of implementing the required public interest test will be too burdensome in smaller states (Donders and Pauwels 2008). Some critics argue that a hardened stance by the EU is symptomatic of an ongoing "hollowing out" of the powers of the state and a drift towards liberalization and marketisation at the expense of cultural priorities (Wheeler 2010).

Ownership and Pluralism

The concern that the Commission is not paying enough attention to protection of socio-cultural priorities associated with media is one that surfaces regularly in debates at European level about policy on ownership and cross-ownership of media and pluralism. On account of the prevalence of economies of scale and scope, there is a natural gravitation in media industries towards expansion, cross-sectoral diversification and monopolisation (Doyle 2002a: 22). This of course raises issues in relation to competition and potential for abuses of dominant

market positions and such problems are usually dealt with by the Competition Directorate of the EU. But, in addition, media empire-building is controversial because of its impact on diversity and pluralism. It is widely accepted that, in the interests of democracy and of social and cultural cohesion, individuals need plurality and diversity within media provision and therefore concentrations of ownership that narrow the range of voices predominating in the media need to be avoided.

One problem for regulators, whether at regional, national or pan-European level, is that ownership pattern in the media affect not only pluralism but also how well firms in this industry are able to manage their resources and so, in turn, the efficiency and economic strength of the sector. The economic characteristics of the industry naturally make it prone to monopolisation and cross-sectoral concentrations of ownership but, at the same time, concentrations of ownership are harmful because of the vital role played by media – television, newspapers, radio and the internet – in supplying the ideas that shape our viewpoints, our cultures and how we vote. So restrictions on ownership, while desirable from the point of view of curbing media empire-building, may at the same time serve to prevent media organisations from growing their activities to whatever size and shape is conducive to maximising their efficiency and profits.

The history of attempts at EU-level to tackle regulation of media ownership and pluralism has been characterised by conflict, controversy and inaction (Doyle 2007). It might be argued that such inaction is not a problem because advances in digital technology and changing patterns of consumption obviate the need for special interventions to restrict media ownership for the sake of pluralism. Growth of the internet and social networking tools such as Facebook and Twitter have opened up increasing avenues for distribution of differing viewpoints and of media content of all sorts. But, despite digitization and growth of the internet, mainstream media brands and services still predominate within patterns of consumption to a surprisingly significant extent. For example, recent research conducted by UK regulator Ofcom confirms that, despite a changing media landscape, the vast people still get their news from television, radio and newspapers (Ofcom 2009:16). And a trend on the part of television and other media companies of moving more towards "multi-platform" production and dissemination has to some extent encouraged more recycling of content, which is harmful rather than positive for diversity (Doyle 2010). So, in fact, a new era of cross-platform expansion by established media players in response to digital convergence and growth of the internet serves to intensify rather than to obviate the need for interventions to protect media plurality.

Because media regulation at national level has not been particularly effective in preventing the development of powerful concentrations of ownership that are visible in most if not all European countries, the European Parliament has persistently over the years called upon the Commission to take action to curb media empires and to protect pluralism. In March 2011, Parliament reiterated this position by voting for the Commission

to bring forward new legislation to ensure adequate minimum levels of pluralism for EU citizens “before the end of the year” (EP 2011: Art 6). But the Commission has historically suffered from paralysis on the issue, partly because, as was confirmed when it consulted in the mid-1990s about a possible Directive on media ownership and pluralism, the wishes of Parliament for tighter curbs over media empire-building are in direct conflict with the desire of industry players for a liberalised framework in which constraints over expansion are minimised or removed. Another problem has been that the legal basis for intervention at European-level on media pluralism is doubtful – this is an issue that is supposed to be dealt with at national level. And a further difficulty is that, even if the Commission were empowered to enact the wishes of Parliament on this issue, there are very many practical obstacles to harmonisation of European media ownership rules because of the vast diversity of market sizes, resource levels and media histories in differing EU Member States (Doyle 2002b). So as far as ownership and pluralism are concerned, it seems very doubtful whether any meaningful action will be forthcoming in the near future.

Conclusions

To be fair to the policy-making institutions of the European Union, it should be conceded that designing policies for audiovisual and media industries is always challenging. These industries are, quite naturally, affected by “normal” economic and industrial policy considerations to do with growth, employment, efficiency etc. But in addition, audiovisual policy has to take account of an array of ‘special’ concerns and considerations that stem from the socio-political and cultural importance of communications. There is no obvious way that policy-makers can balance or offset these competing priorities against one another. As has been noted by economists such as Alan Peacock who have worked on television policy, whatever the differing welfare impacts that alternative policy choices could give rise to, it is exceedingly difficult to pinpoint these impacts and bring within the framework of any kind of satisfactory quantitative analysis (Peacock 1996).

Another related problem is that different constituencies with a stake in audiovisual media provision —television shareholders, senior management, employees, journalists, advertisers, citizens, audiences, “the public”— are likely to have different ideas about what the purposes of regulation are, or ought to be. This may be partially true of any industry but it is especially true of sectors involved in cultural provision, such as media. Everyone feels they have a stake and public expectations about what objectives public policy ought to pursue can be extremely wide-ranging and at times contradictory.

When it comes to assessing economic policy for audiovisual industries in a European context then all the usual complexi-

ties and contradictions associated with communications and cultural industries become overlaid by politics. And it is not only the transnational politics of different member states (with their very different histories, media systems and viewpoints) that need to be negotiated but also the differing positions taken by the various institutions of the EU and different factions within those individual institutions (Collins 1994). Taking these difficulties into account, it stands as a positive achievement that the Commission has, over the years, managed to bring forward several collective policies in the areas of media and audiovisual. And indeed some aspects of EU media and communications policy have proven quite influential, e.g. technical standards, e-commerce and liberalisation of telecoms.

However, as evidenced by the areas of intervention considered in this article, conflicting agendas have left a marked impression across the Commission’s efforts to draw up policies in the area of audiovisual. Just as key landmarks – the AVMS Directive, the MEDIA programme and, to an extent, the Communication on PSBs and State Aid – reflect compromise between, on the one hand, a desire to liberalise and promote the economic competitiveness of indigenous European players and, on the other, a wish to intervene to protect against the effects of liberalization and the unhampered forces of the free market, each also stands open to criticism for lacking a clear enough sense of direction and for failing to advance effectively *any* of the public policy objectives associated with audiovisual media, be they socio-cultural or economic in their nature.

The challenges facing audiovisual regulators have been made more complex by ongoing advances in technology. More avenues for distribution and greater interactivity on digital platforms continue to transform markets for audiovisual supply and consumption and the challenge of adjusting policy to the newly emerging competitive market circumstances has proven to be testing, as demonstrated by the lengthy debate and controversy which preceded final agreement on the scope of the new AVMS Directive in 2007. Whereas support for content via the subsidies offered through the MEDIA programme has been a central plank of European audiovisual policy to date, ensuring appropriate incentives to promote the commercial development of Europe’s audiovisual content providers is likely to call for new sorts of initiatives in future.

Historically, the main areas of EU intervention in relation to audiovisual arena have been content and competition. In future, copyright will assume greater importance. This is signalled in a range of copyright-related issues that, alongside promoting the roll-out of high-speed broadband across Europe, constitute the “Digital Agenda” (CEC 2010b) of aims the EU wishes to achieve by 2020. The Murphy case has also highlighted ways in which the framework of coordination of copyright across Europe requires adjustment to the greater cross-frontier circulation of audiovisual services made possible by the digital era. But

on the question of copyright, as with virtually all media-related policy issues, tensions between differing ideological positions and interest groups represent a much more likely source of impediment to the Commission's work in drafting European-wide solutions than changing technologies. On copyright, some take the view that the assumptions underlying traditional copyright law are out-of-date and apt to stifle innovation whereas others argue that continued strong protections for copyright remain vital to the successful development of Europe's audiovisual content supply industries, notwithstanding digital platforms.

Although the threats and opportunities caused by digitisation and by disruption to the value chain will undoubtedly add complexity to the task the Commission faces in regulating audiovisual as time goes on, the history of intervention in this arena clearly suggests that negotiating the conflicting agendas surrounding audiovisual media represent a much more likely source of challenge to progress for policy-making at EU level.

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