For a regulation of multimedia communication networks that serves the public interest: ten principles

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Abstract

The media and electronic communication networks (which are increasingly more convergent) are becoming the backbone of the world. Given this situation, liberal and democratic political regimes can opt for different kinds of regulation. This article proposes a social-liberal regulation, based on ten principles, for multimedia communication networks that serve the public interest with the aim of strengthening democratic power and citizen engagement and eliminating invisible areas for large (mostly transnational) private powers that are becoming increasingly important in society. A network regulation with strong social legitimacy is an ally to freedom and progress.

Keywords

Regulation, multimedia communication networks, public interest, media systems, freedom of expression.

Resum

Els mitjans de comunicació i les xarxes de comunicació electròniques –cada cop més convergents– s'estan convertint en la medul·la espinal del món. Davant d'aquesta realitat, els règims polítics liberals i democràtics poden optar per diferents tipus de regulacions. Aquest article proposa una regulació liberal-social, assentada en deu principis, de les xarxes de comunicació multimèdia al servei de l'interès públic amb l'objectiu d'enfortir el poder democràtic, la participació dels ciutadans i acabar amb les zones d'invisibilitat dels grans poders privats –la majoria transnacionals– que cada dia agafen més importància en la societat. Una regulació de les xarxes, amb una forta legitimació social, és una aliada de la llibertat i del progrés.

Paraules clau

Regulació, xarxes de comunicació multimèdia, interès públic, sistemes mediàtics, llibertat d'expressió.

Introduction

We are fully immersed in the information society, a model of society in which the *information generation, processing* and *transmission*[1] have become essential factors that condition economic and social processes as a whole. Moreover, "electronic communication networks will constitute the backbone of our lives",[2] where information becomes a key ingredient. In the information society, in addition to the political and state system, the role of *transnational corporations* (TNCs) is becoming increasingly important. *Transnational informational capitalism*,[3] which is very probably the definition that best identifies the current model of global development, has restructured new spaces in the world network of an economic, political and cultural nature; more fluid, dynamic and flexible spaces, and it has pushed out its borders, nevertheless setting up "structural inequalities".[4] This kind of capitalism is characterised by a type of economy that is primarily aimed at innovation, research and the production of knowledge via industries centred on microelectronics, ICTs, creative industries (normally aimed at culture and entertainment) and the sector of biotechnologies, as well as the services sector.

This is the context in which *multimedia communication net-works*[5] have appeared, *networks* made up of the media and electronic communication networks that are acting in an increasingly interrelated, convergent way and that, in my opinion, have three functions: they are *mediation networks* that generate individuals' symbolic universe, they condition access by citizens and become essential in order to interpret reality and generate and articulate knowledge. The emergence of these networks is altering the whole media environment in an extraordinary way. Communication systems must be appreciated from this global, converging perspective.

In this context, I believe it's relevant to insist on the three most important processes being experienced today by the world of communication: firstly, the appearance of the internet and the emergence of *mass self-communication.*[6] In addition to the transformation of the traditional media and to the appearance of a new communication environment with new media, we have also seen a new communication concept appear, *mass self-communication*, in which users have become both senders and receivers of their messages. With the exponential multiplication of network users and the possibility of transporting them, *mass self-communication* will be an increasingly important model. Secondly, we are witnessing a relentless process of concentration, particularly in terms of prime time multimedia content.

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The great *majors* perform the function of integrator and controller of the distribution and dissemination processes through alliances with network managers. Possibly the most decisive factor, beyond the tendency towards cultural uniformity, is that these majors are attempting to influence beyond the communication sphere, "Media power is political power".[7] And, finally, thirdly, communication and networks are seen, in principle, as commercial goods and are losing their dimension as social or cultural goods. This trend is contrary to the idea that information and communication are more than just a commercial good or merchandise. They are too valuable to be left to the invisible influences of the market.

Broadly speaking, there are two regulatory models in liberal political systems for multimedia communication networks.[8] On the one hand, the *radical-liberal model of multimedia communication network regulation*, which believes that public intervention should be as minimal as possible, which sees communication essentially as an economic good and just another business. It believes that public interest is pursued through the interest of the public. Remember the famous statement by the former Chairman of the Federal Commission of Communications (FCC) under Reagan's presidency, Marc Fowler, "the public's interest…defines the 'public interest'".[9] This model does not concern itself with concepts such as *the internal pluralism of the media*, and I believe that public interest is only guaranteed by the external pluralism resulting from a competitive market between different operators. Neither does it concern itself with content or its quality. In the field of electronic communications, it tends to grant all the power to large telecommunications firms and questions any obligations resulting from universal service and, directly, the concept of net neutrality, since this represents a duty for network operators that forces them not to discriminate any kind of content. On the other hand, there is a second model, the *social-liberal model of multimedia communication networks,* which sees the world of electronic communications and audiovisual communication from a different perspective: public interest cannot be reduced to the public's interest, which is merely the aggregation and maximisation of a number of individual preferences and which, without essential values agreed by a specific community, makes it very difficult for citizens to live together in freedom and with as much equity as possible. This model defends the greater presence of public powers in regulation and in providing the service. Multimedia communication networks (MCNs) are more than economic goods: they are goods of a cultural, ethical and social nature. Electronic communications network operators must ensure missions of public interest. The media, especially public media, must ensure plural media content and quality service for society as a whole.

The ten regulatory principles I present stem from my personal belief that the best regulatory model for MCNs to serve the public interest is the social-liberal regulatory model. The aim is, while accepting the market economy (capitalism), to find formulas to correct the inequalities generated by free market operations. As Lionel Jospin would remind us: "We agree with a market economy but not with a society dominated and controlled by its values".[10] A social-liberal model cannot be understood without a fundamental and guaranteed framework of freedoms (throughout) nor without also establishing stable frameworks that promote conditions of more equal opportunities for everyone. The best equilibrium between these two values will foster a just, free society, values which, ultimately, will always remain an inevitably utopian demand but nonetheless a goal for this model of society.

The most important theorists for the social-liberal model of the last fifty years have been J. Rawls and J. Habermas. Both philosophers have been the object of comparative studies[11] the core of which is the legacy of Kantian thought. These two thinkers have theorised that a society must aim for the maximum conditions of both freedom and equity. That freedom is not enough on its own and that it will be very difficult for humans to live together without striving for as equitable conditions as possible. However, without the real conditions of freedom, individuals are stunted and diminished. The critical rationality of Habermas and the public reason of Rawls come together to achieve this framework of co-existence. The main values we can consider as similar in the research by Habermas and Rawls and which have definitely affected social liberalism and social democracy are as follows: firstly, the affirmation of individual autonomy. This aspect is vital. Both probably share the same Kantian legacy that forms the basis of their respective doctrines and which refers essentially to the capacity of a rational individual to take his or her own decisions, informed and not conditioned. Secondly, the affirmation of freedom. A freedom that also has its most solid base in Kant: freedom is understood as the possibility to choose and is understood as an exercise of personal self-determination. Thirdly, the affirmation of equality. Equality that not only means all individuals are equal before the law but that also allows us to assume that society will establish mechanisms to guarantee a certain degree of equal opportunity in the access to and enjoyment of goods, of knowledge and of participation in public affairs. And, fourthly, the affirmation of a commitment to justice that seeks for compatibility and harmony between the three former principles. Rawls defines this as *realistic utopia*.

These four basic values (individual autonomy, freedom, equality and a commitment to justice) have helped to establish social liberalism or social democracy and form the basis of the regulatory principles I shall now present.

First principle: **for a regulation that permits open, free, accessible networks.** *In defence of net neutrality, universal service and the radio spectrum as a public good*

Eli Noam has recently proposed *regulation 3.0.*[12] Let us review the three regulatory generations: "Telecom 1.0" or "analogue" regulation in the audiovisual field, in a monopolistic structure and owned or controlled mostly by the government. Regulation 2.0, beginning in the early 1990s, stressing privatisation,

liberalisation and competition. But now, the fibre optic and electronic new generation communication networks (NGNs) are forming a more concentrated market with pride of place going to infrastructures and convergence (interdependence) between networks and content providers.

This first principle includes three essential concepts related to the regulation of multimedia communication networks (MCNs): the concept of universal service, the concept of net neutrality and, finally, the concept of radio spectrum as a public good.

As I have already mentioned, electronic communication networks have become the backbone of our societies. These networks directly sustain MCNs. Access to electronic communication networks has become a basic need, a fundamental condition to access work, to access the vast majority of the media, to be able to exercise our rights and duties as citizens. From this point of view, the impeccable logic of the first principle can be understood: seeing electronic communication networks as a universal service that the state must ensure for all citizens irrespective of their social condition or geographical location.

Net neutrality is related to this concept. Essentially, net neutrality means keeping access to networks and the content that circulates on them clearly separate, in the sense that all content (whatever it is) will be treated in the same way by the networks. This also means that networks will not be specialised but generalist, with multiple systems and platforms, *without discriminating* between the content agents operating on them. To date, the different neutral cores of the internet have been interrelated without discriminating any kind of content because the internet doesn't actually belong to anyone (and this is one of its huge assets), and its network must be set up based on a multitude of interconnected networks that have reached voluntary agreements of interchange and interconnection between the ISP networks. If the internet lost its status as a free network and content were conditioned by network management companies, we would find users, citizens being limited in their capacity to choose, and network management companies would select content for us. Consequently, the non-discrimination of content on the part of network management companies is a strategic priority for the future. What is at stake is content being selected by citizens and not by telecom or network management companies; ultimately, what we're interested in is the public and free nature of the internet.

Finally, this first principle also includes another strategic issue: the statute and management of the radio spectrum. Historically, it has always been a public good owned by the state, managed by the state and sometimes allocated via public procedures to private firms for a specific use, as is the case, for example, of private radio stations or mobile phone operators. Now we are witnessing a wave of neoliberal, privatisation that demands the spectrum should be able to be sold to private firms and no longer be publicly owned. I believe it would be a very big mistake to privatise the radio spectrum because this would involve the loss of a collective (public) good that is indispensable for citizen participation.

Second principle: for a flexible, simple regulation of media content. *For criteria of linearity and influence*

To begin with, the four actors involved in the complex world of multimedia communication networks should be clarified. Firstly, there are the intellectual copyright holders (creators, producers and managers). Be they creators, producers or collecting societies. Secondly, there are network managers (including former telephone companies and now also access providers, old cable companies that now manage their networks, and providers of access services, companies specialising in network access and, finally, satellite platform managers). Thirdly, there are information society service managers (including companies of chips, equipment, Microsoft hardware and software, search engine firms such as Google and Yahoo, content packaging service managers without editorial responsibilities, such as YouTube). Finally, in fourth place, there are *multimedia service providers*, which "provide" communication services with editorial responsibility.[13] This definition is particularly based on the definition of audiovisual media service provides employed in the European Union's Audiovisual Media Services Directive, which states that a media service provider is "the natural or legal person who has editorial responsibility for the choice of the audiovisual content of the audiovisual media service and determines the manner in which it is organised".[14] I prefer to use the expression "multimedia communication" instead of "audiovisual media" because I believe that, in this way, we can define more generally the subject that needs to be regulated. However, this Directive includes a division that is of particular interest to me: the difference between linear and non-linear services.[15] This distinction basically separates classic broadcasters that access citizens without their intervention (linear services) and providers of media services that involve more interaction with citizens. Linear services also normally involve content defined by the provider that is "pushed" to viewers, without the possibility of this being changed, while non-linear services imply the provision of media content that citizens can "pull" from the network.

Regulating media content is justified essentially because of its impact on the public sphere. With the exponential multiplication of communication windows, i.e. multimedia providers, I believe that regulation and the action taken by regulators must essentially provide for two criteria: linearity and influence. If linearity is a primary criterion, the second is the influence of a specific provider on a certain audience. If a provider achieves a position of dominance and this position jeopardises pluralism, the public powers can establish measures (as we will see below) to safeguard this.

Third principle: for a regulation that guarantees freedom of expression and its equity in the public sphere. *Pluralism and cultural diversity*

Broadly speaking, there are two models of regulation for free-

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dom of expression in western societies: the model established in the Philadelphia Convention inspired by the liberal-radical regulatory model, and the one established in the Rome Convention, of 4 November 1950, to protect human rights and fundamental freedoms, inspired by the social-liberal regulatory model.

The first amendment of the Philadelphia Convention (1791) ratified the idea of "freedom of speech", which became one of the characteristic features the American Constitution. Freedom of speech is protected together with "freedom of the press", added in order to guarantee written and printed documents as well as oral communication. The amendment states that "Congress shall make no law [...] abridging the freedom of speech, or of the press". There is the belief that, without freedom of information and expression, and their necessary excesses, there is no democracy, nor is there a government of the people for the people. The social-liberal model is different. In effect, the Rome Convention of 4 November 1950 has been adopted in most European countries to protect human rights and fundamental freedoms, whose article 10 deals with freedom of expression. This article sees freedom of expression as including the freedom to hold opinions and to receive and impart information and ideas without interference by public authority, although television, cinema and radio might come under a prior regime of authorisation. However, exercising these freedoms might be subject to certain conditions, necessary restrictions in a democratic society. In fact, the laws of some European countries (such as Germany or France, among others, with Nazism and the Holocaust as their backdrop) have limited some aspects of the freedom of expression and have regulated the media, sometimes excessively.

In spite of the difference between these two models, I believe we must stress that, in these countries, freedom of expression is an unquestionable reality. For Norberto Bobbio, democracy is public power "in public", it's visible power.[16] It's a central condition of democracy and the media fulfil an essential function in terms of the visibility of this public power "in public". However, I believe there are some threats to the freedom of expression. Firstly, the concentration of ownership, which might entail a limitation to pluralism; secondly, the selection of subjects in producing information which, without a plural media system (also in prime time) would limit the rights of citizens to receive plural, true information; thirdly, the tendency to dumb down[17] content on the part of operators and, finally, the worrying tendency to degrade information, most particularly in terms of the information's truthfulness or quality, which we shall deal with in the next point.

Although public powers have limited room to manoeuvre in the area of content *per se*, they must nevertheless guarantee equal conditions of freedom of expression. Equity implies a plural media model. When the issue of pluralism is dealt with, normally reference is made to internal pluralism and external pluralism. *Internal pluralism* supposes the existence of public media that ensure, by means of professional journalism[18] and the obligation to assemble the different opinions they represent, the plurality of voices and opinions of a specific community. *Ex-*

ternal pluralism requires the existence of a sufficient number of private media that ensures different trends of a political, social, cultural nature, etc. that are present in society are represented, so that citizens can compare information passed on from the different ideological positions that exist. External pluralism is a tributary of the concept of the *marketplace of ideas.*

To ensure equity in internal pluralism, public operators and editors must respect this principle, based on the utmost truthfulness and honesty of information, by means of professional journalism that guarantees different opinions and sensitivities are expressed that reasonably represent the plurality of voices and opinions. Regarding the model of external pluralism, private operators and editors of media services that, within a specific audience, occupy a dominant or highly significant position (e.g. more than 25% of the audience) would be forced, by law, to guarantee the principles of internal pluralism, especially but not exclusively during election periods.

Fourth principle: for a regulation that safeguards programming quality. *The challenge of the truthfulness and honesty of information*

How the media have developed, especially linear media, has confirmed Neil Postman's well-known prophecy: "under the governance of television, [public discourse] has become shrivelled and absurd",[19] reminding us that our languages are "our media. Our media are our metaphors. Our metaphors create the content of our culture".[20] The strength of media language is what creates our metaphors; in other words, our symbolism, our references, our imaginary, and it has had a very great effect on our culture today. A culture in which everything is liquid, evanescent, provisional, as we are reminded by Zygmunt Bauman.[21] A world that, thanks to technology and science, is advancing at breakneck speed without direction, that makes acceleration prevail over eternity, novelty over tradition, speed over serenity. In this media culture, trash TV becomes ever greater: programming in which people dedicate themselves to loudly displaying, and in a crude way, their private lives, their love affairs and their quarrels, conveying values that degrade personal and civil life.

Regulation only has one tool to combat such degradation: the *watershed.* Regulation in this area can only recommend, advise, promote the social responsibility of linear multimedia service providers and can only, I repeat, impose rules that must be legally obeyed during the watershed. This is the only way. Bolstering the criteria used to interpret the watershed in order to ensure, at least, that from six in the morning to ten in the evening this kind of programme is kept off the TV grid.

Together with entertainment programming going off-track, the media are also undergoing a process of degradation in terms of the truthfulness and honesty of information. This aspect is probably the most delicate, difficult and controversial and also one of the most important of the tasks that social-liberal regulation should encourage over the next few years. This would be

an unthinkable criterion for those who defend liberal radical regulation, who are convinced that the best regulation in this case is inexistent regulation. And they are partly right: the risk of prior or posterior censorship (or self-censorship) is always hovering over the horizon and it is a threat that would jeopardise the basic, essential principle of communication, namely that of the freedom of expression and of information.

In any case, I believe we must insist that the social-liberal model of regulation of multimedia communication networks, with the maximum caution and good sense and ruling out any scenarios that might be seen as censorship, attempt to find mechanisms to tackle the three phenomena that threaten the truthfulness and honesty of information. Firstly, the ferocious competition in the market: communication, increasingly seen as a commodity, has broken with the rules that had guided a certain kind of journalism and media content, content that is becoming increasingly sensationalist and, as Croteau and Hoynes have analysed very well, prioritises information that is drama, negative, with events instead of issues, personalities instead of policies, fragmentation and superficiality, promoting strategy over substance.[22] Secondly, the loss of credibility by so-called "professional" journalism, a journalism based on professional codes of verification and comparison of information which is increasingly being questioned and, finally, the ultraconservative drive in the US media and a little everywhere. In effect, since the 1980s, and as from the 1990s in radio and television and, most particularly, as from the phenomenon of "TV preachers", some media have been set up that, from right-wing positions, permanently agitate sectors of public opinion, such as Fox News in the United States. These media rise up against all those ideologies and parties that do not identify with their values. Garton Ash states, in an article from 2010, that "For what America's Fox News groupies say, in effect, is: "Tunnel vision? Yes, please! Unfair and unbalanced? We love it that way!" If anything, BBC-style impartiality is rather losing out to multiple partialities in media across much of the democratic world".[23] In advanced industrial societies the right to freedom of expression has been firmly established but another, equally important right has been relegated to second place: the right of citizens to receive true information. Truthfulness does not only form part of an ethical requirement of news professionals but also of the precepts of the right to information. This will be one of the main issues over the coming years and will affect the very evolution of our democracies in the future.

Fifth principle: for a regulation that guarantees public multimedia operators. *For a service that is public and civil in ownership and nature*

Broadly speaking, there are two models of public multimedia service providers. One, following the European model, is initially a tributary of the BBC, of public corporations (originally monopolies) with the capacity to reach a large audience and a duty of internal pluralism. This model is very much present in Europe and forms a major part of Europe's social model and, to a certain extent, a guarantee of a democratic state. The positioning of the public media in the context of European public space constitutes a common factor in most countries in our European environment. Remember that Amsterdam Protocol 32, annexed to the European Community Treaty (incorporated in 1997 as part of the Maastricht Treaty), on the system of public broadcasting of member countries defines public service as any that is directly related to the democratic, social and cultural needs of each society and to the need to preserve media pluralism.

The other model is the United States one, namely the *public broadcasting system* (PBS), with media that are more of a public nature rather than public ownership. These media are rather civic or "community" in the sense that they are not owned by the administration but normally managed by civil associations with educational or civic aims. PBS at a national level and local PBS receive pitiful funding from public administrations, with financial contributions that come either from foundations or donations or directly from the audience. Their audiences are also small, although they have great credibility.

As a consequence of the liberalisation and deregulation occurring in the world of communications, both public provider models are being questioned particularly by private operators and by parties and social groups that identify more with more conservative positions and radical liberalism. However, these doubts also stem from the incapacity of public providers to act independently, employing criteria, always imperfect and with room for improvement, that strive for excellence in programming and information. Public providers face huge difficulties: very often the fact that they find it impossible to separate themselves from the political power has a direct effect on the provision of professional and plural information; their search for a large audience and leadership without giving up essential standards of quality; and the economic difficulties of public administrations and their famous cuts, leading to financing systems that do not foster stable programming. This context has a very direct impact on the two models of public providers.

However, public providers, especially European ones, if they are capable of becoming a benchmark for informative thoroughness, pluralism and quality in programming as a whole, are destined to experience a new historical phase. In a context of increasingly fragmented audiences, huge competition will arise in premium news and entertainment services. This will split the audience into two different areas: specialised, fragmented audiences and large audiences around linear services. Pluralism and quality programming are endangered precisely with large linear service providers. If they want to be significant and enjoy social legitimacy, public media must be present in this second sector of audiences, with good quality, professional entertainment, educational and informative programming, and with the most honest and plural news programmes possible. Public media must free themselves from under the wing of governments, of parties, of certain corporative interests of professional sectors that have

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placed them within a closed, elitist trend. Without this mission and without this freedom, media that are public in nature and in ownership could lose their legitimacy. Public media that reproduce private media models would not make sense. The future lies in publicly owned media providers also being civic in nature. The future lies in ensuring that their ownership and nature are both public and civic.

Sixth principle: for a regulation that establishes transparent mechanisms of competition. *Limiting concentration if this weakens pluralism*

Given this convergence and concentration occurring among large multimedia communication networks, under the framework of social-liberal regulation, public powers must formalise public intervention aimed at achieving the objectives I presented previously to defend the public interest, something which will involve the legitimacy of democratic powers to establish mechanisms in order to prevent excessive concentration.

One of the academics that have done the most work on this area is C. E. Baker. In one of his reference books,[24] he proposes seven policy or regulatory measures to limit media ownership and promote real competition in the *marketplace of ideas*. These measures involve anti-trust laws, public power approval before mergers can take place, stopping non-media firms from entering the sector, ensuring editorial independence after a merger, allowing company editorial boards to play a part in merger processes and, finally, imposing on incumbent operators specific obligations to ensure pluralism. I believe all these measures to be very interesting: some are more possible while others are simply impossible.

In this current boom of multimedia communication networks, I believe that regulatory measures should focus on two objectives: the first, not to allow the same company to be present in two or more areas of MCNs. Previously we have reviewed the different actors present in MCNs: the same firm should not be able to have, in this respect and by way of example, control of electronic communication networks (and of access to them) and control over the production of the media content that circulates on these networks. This measure could guarantee, for example, the requisite principle of net neutrality. Or, alternatively, a company with a dominant position in the area of content should not be able to manage electronic communication networks. Secondly, and beyond the usual anti-trust policies, I believe that public powers should be legally able to impose pluralism measures when a multimedia provider assumes a position of dominance in a certain market and, consequently, has a very great capacity to influence public opinion.

Seventh principle: for a regulation that principally promotes the co-regulation and self-regulation of actors in the system. *Fomenting agreed, flexible regulation*

The concepts of self-regulation and co-regulation encompass the spirit of the European Union's White Paper on European Governance (2001) that establishes two basic criteria to strengthen governance. Firstly, *do less in order to do better;* i.e. regulate less but better and, secondly, the *diversification of modes of governance*. As we can see only too well, these principles are tributaries of the subsidiarity principle. Within the framework of these two "pillars", European legislation sees self-regulation and co-regulation as "'forms of interaction between Community processes and private actors' and the common feature has been considered to be 'the existence of some form of relationship between binding legislation and voluntary agreements in a particular area'".[25]

In the complex world of multimedia communication network regulation, the need arises for more adaptable and flexible administrative regulation and also, if possible, decided via agreements in order to attend more effectively to the general interest. By *co-regulation* I understand a certain regulation when, based on a legal framework that is normally general in nature and promoted by the public administration, usually through regulatory authorities, an agreement is reached with all stakeholders regarding a precise, specific interpretation of the rules. Compliance of these rules will be supervised by the corresponding regulatory authority. On the other hand, I understand *self-regulation* to be when, in the absence of a specific legal regulation, the actors (be they companies, NGOs, associations, etc.) agree certain rules voluntarily, with the desire to respect them, at the same time establishing mechanisms to monitor whether these rules are being complied with.

Both types of regulation are destined to play an extremely important role in the future of regulating MCNs. A regulation that can permit adaptability, more flexibility within a complex situation of digital convergence.

Eighth principle: for a regulation that promotes digital education. *Beyond media literacy*

Media literacy is the capacity to analyse and filter the messages arriving every day from the media, such as news and entertainment. The idea is to help establish an ability to critically interpret the content that reaches us from the media. Two stages can be distinguished[26] in the development of this concept: an initial protective stage regarding the media, especially television, that believed there was dangerous, harmful content that formed part of the "low culture", and a second stage that aims, normally by incorporating the teaching of "media competences" in the ordinary curriculum of compulsory education, to provide young people with the means for critical interpretation, to understand the formats, messages, in short the content they receive via the screens that envelop their lives.

Lessig stresses the need for a *public-spirited grammar* to understand the new multimedia context and its repercussions, especially regarding children and young people.[27] In effect, with

the digital revolution and technological advances, the television medium has lost its status as a central object in media education. The new multiscreen and multimedia environment is substantially altering the communicative environment. This is one of the big changes in the last ten years and has led researchers in this area to speak of *multimedia skills* to broaden the concept of audiovisual skills, although one does not replace the other: "multimedia skills do not replace audiovisual skills, in the same way as they don't replace verbal skills. Quite the opposite: they require them".[28]

In any case, I believe that the underlying issue has gone beyond even the need for multimedia skills. As a result of the far-reaching changes brought about by the digital revolution and by multimedia communication networks, the whole educational system needs to change and substantially. MCNs will gradually become a key element in educational processes and aspects that cannot be separated from compulsory education. What public powers need to do is to promote a real mutation of the compulsory educational system to include digital language and the extraordinary potential of multimedia communication networks. To this end, we urgently need a public policy that truly promotes a comprehensive change in the compulsory education system within the new digital environment.

Ninth principle: for a regulation led by *independent, professionalised* and *convergent* regulatory authorities

It is my belief that the regulatory authorities for electronic communication networks and the content of multimedia providers should have three basic principles: *independence, professionalism and convergence between networks and content*.

Regulatory authorities should be independent both from the public powers and the agents present in the media and telecommunications markets. Their independence must be guaranteed both in the way members of the authority are elected and also via mechanisms set up related to their funding. Very often the need for independence is stressed in relation to political powers and little is said in relation to economic powers. Both are necessary and difficult. With economic powers, regulatory authorities must maintain a relationship of dialogue and coordination while also keeping a requisite distance in order to be able to regulate, so that private interests do not affect the decisions taken. In the two *converging* areas, networks and content, the situation is not easy. In the area of multimedia content providers, because political interrelations between companies and political groups are very great; in the sector of electronic communication networks, because normally the large firms in the sector are so crucially important for the national economy there is a tendency to overprotect "national champions" in detriment to the logical rules of competition in an open, liberalised market.

Regarding public powers and the main parties that affect decision-making, a study of different mechanisms to elect regulatory authorities suggests that their members should be cho-

sen, after real sessions of parliamentary evaluation regarding the candidates' merits and qualifications, using supermajority mechanisms in the respective parliaments, forcing the different groups with a parliamentary presence to reach agreements in terms of the specific profiles and people that will be appointed to form part of the regulatory authority. Nevertheless, all these mechanisms are not enough to guarantee the independence of the authorities. These mechanisms are essential but not sufficient. Authorities find it much more difficult to act independently in cultures with an insufficient democratic culture or in a public sphere where private powers are very strong.

The professionalism of regulatory authorities is also related to the size of their organisations and structures. Some authorities have miniscule organisations, without resources, with few personnel, with real difficulties in minimally achieving their goals. Others, however, are excessive machines, with too many "advisors" and probably also with too many personnel, with unwarranted costs. Neither of these models is good and they affect the credibility and professionalism of regulatory authorities.

Professionalism also entails transparent decision-making mechanisms, both internally and externally. Externally, with consultation and dialogue when appropriate and, internally, with the transparency that guarantees the decision has been taken following the procedures and principles established in the corresponding rules, without undesirable interference.

However, and in the context of convergence between networks and content, I believe it is reasonable and necessary to move towards a *converging* model of a regulatory authority that allows the authority to largely follow the transformation being undergone by multimedia communication networks and, in accordance with the sector and public powers, to attempt to deploy regulations that are proportional, flexible, effective and reasonable.

Tenth principle: for a regulation that promotes minimal rules to ensure *free flow* and *free internet* and that helps to create a European space of multimedia communication networks

Thanks to the internet, MCNs have been created based on a decentralised, interconnected logic and the *free flow* of information has taken on the utmost importance. *Free flow* resembles *net neutrality*. It is no longer radically liberal to demand guarantees for freedom of expression and the generation and control of its sources: *free flow* has taken on a new strategic meaning for a more just and equal world. A veritable *free flow* can really help to redress information flows, as well as eliminate the rationale of certain hegemonic stories over other, weaker dependent stories.

To ensure real *free flow* and a *free internet*, I believe that the establishment of international binding agreements will become increasingly evident, a treaty that establishes minimal rules that effectively provide for the universalisation and neutrality (non-

discrimination of content) of networks. I am of the opinion that an international treaty is necessary, with its supervisory and management mechanisms, to replace the allocation functions carried out to date by ICANN. We are at the threshold of an increasingly multipolar world. In this multipolar world, international relations will be sustained both by homogeneous regional policies and by multilateral agreements between interstate bodies. Within such a context, and based on the premises I have explained at the beginning of this point, I believe this is the most likely future of the regulation of the *free internet.*

Precisely in relation to regional policies, and in accordance with the telecommunications directives of 2009, the new audiovisual media services without frontiers Directive of 2007, the BEREC[29] and, to a lesser extent, the EPRA,[30] the European Union has sufficiently powerful instruments to promote a more homogeneous regulatory policy and to truly construct a European space of multimedia networks. A powerful structure for a European space of multimedia communication networks could become a decisive instrument in the process of European integration.

Conclusions: multimedia communication networks and the public interest

The aim of these ten principles based on the coherent social-liberal regulatory model is to facilitate the construction of a more public sphere, in the hands of citizens, in which political processes can be carried out with the maximum citizen participation and knowledge. Public interest entails a very precise objective: citizens reclaiming public space.

However, this reclaiming of the public sphere comes up against a pressing reality. Commercial values and large trans-national corporations (TNCs) have penetrated the public sphere too far and are swamping and transforming it. Democratic public powers are losing their legitimacy and invisible powers are emerging (very often called "markets") that have become the true powers in our societies. Without doubt, the lack of governance and disconcert caused by these changes in scenario push citizens away from public affairs and, as we have seen very recently, lead to increasing indignation among a large number of citizen groups. They also help to discredit politics and, inevitably, the multimedia.

Given the invisible nature of these new private powers, we must reinforce the power of democratic public powers. Liberal democracy is the public power "in public"; it is the visible power. It is a crucial condition of democracy. Visibility is a *sine qua non* for citizen access to public affairs. Networks can foster apathy and a weak political culture and, as Curran reminds us, "the market can give rise not to independent watchdogs serving the public interest but to corporate mercenaries which adjust their critical scrutiny to suit their private purpose".[31] Without media that publicise public affairs, that provide visibility to the decisions taken by the powers, that search in the shadows for

the real mechanisms of power fashioned by large TNCs, citizens are unlikely to take part or exercise their rights.

In this respect, we need citizens to take back the public sphere. To achieve this, we need multimedia communication networks that are not subject to the rationale of the market and of large TNCs. The social-liberal regulatory model is effectively based on respect for freedom of expression and information and respect for a free market. Social-liberal regulation, with the principles I have presented, is an unconditional ally of democracy and its values. An ally to strengthen democracy, to foster conditions whereby citizens can take part in the public sphere and reclaim politics in the noblest sense of the word.

Notes

1. Castells 2003.
2. Castells 2003, 431.
3. Fuchs 2008.
4. Fuchs 2008, 340.
5. Carbonell 2011.
6. Castells 2011.
7. Bagdikian 2004, 4.
8. Carbonell 2011.
9. Fowler 1982, 51-58.
10. Lionel Jospin made this comment at the PS Congress in Grenoble, 24-26 November 2000.
11. HABERMAS, AQU AUDIOVISUALS QUE IMPLICD CAPACITAT...J. "Reconciliation through the public use of reason: remarks on John Rawls's political liberalism". *The Journal of Philosophy, vol.92, no. 3, March* 1995, p. 109-131. RAWLS, J. "Reply to Habermas." *The Journal of Philosophy, vol.92, no. 3, March* 1995, p. 132-180. HABERMAS, J.; RAWLS, J. *Debate sobre el liberalismo político.* Barcelona: Paidós, 1998. PEDERSEN, J. "Habermas and the Political Sciences: The Relationship between Theory and Practice". *Philosophy of the Social Sciences, v*ol. 39, no. 3, September 2009, p. 381-407
12. Noam 2010, 33.
13. This division partly follows the criteria established by Barata 2009.
14. <http://europa.eu/legislation_summaries/audiovisual_and_media/l24101a_en.htm>
15. e) "television broadcasting" or "television broadcast" (i.e. a linear audiovisual media service) means an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule. g) "on-demand audiovisual media service" (i.e. a non-linear audiovisual media service) means an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider".
16. "One of the clichés heard in all past and present debates on democracy is the assertion that is 'open government' by a 'visible power'. Almost every day you can come across plati-

tudes to the effect that it is in the 'nature of democracy' for 'nothing to stay relegated to the realm of mystery'. Making a play of words, we might define the rule of democracy as the rule of public power in public". Bobbio 1986, 94. (N.T. In English, Bobbio 1987, 79)

17. CROTEAU, D.; HOYNES, W. *The business of media: corporate media and the public interest.* Thousand Oaks, CA [United States]: Pine Forge Press, 2006. p. 211

18. I should like to note that I do not use the concept of information neutrality because I believe it is an inapplicable concept. An operator may attempt to act neutrally but the information and its treatment will never be neutral.

19. Postman 1985, 16.

20. Postman 1985,15.

21. Bauman 2007.

22. Croteau and Hoynes 2006, 211.

23. GARTON ASH, T. *"La lucha de poder en Internet" El País,* 27 March 2010. http://www.elpais.com/articulo/opinion/Lucha/poder/Internet/elpepiopi/20100327elpepiopi_4/Tes. http://www.guardian.co.uk/commentisfree/libertycentral/2010/mar/24/china-google-censorship-netizens-freedom

24. Baker 2007, 171-189.

25. Senden 2005.

26. OLIVA, M. "Panoràmica de l'educació en comunicació audiovisual." *Quaderns del CAC,* no. 25, 2007, p. 29-40. <http://www.cac.cat/pfw_files/cma/recerca/quaderns_cac/Q25oliva.pdf>

27. Lessig 2005.

28. Ferrés 2007.

29. Body of European Regulators for Electronic Communications.

30. European Platform of Regulatory Authorities.

31. Curran 2005, 245.

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