Commentary and Debate: Special Section

Media Governance:
New ways to regulate the media

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The following set of reflections emerged from a panel session that took place in June 2006 in Dresden as part of the International Communication Association, and out of a lively interaction among the six authors. We thought that the outcome of this reflection on the concept of media governance framed from different perspectives, from a philosophical concept to its diverse applications in the European Union, was important enough to dedicate a Commentary and Debate section to so that other people who were not in attendance could read it and share their visions with the editors.

There are good grounds to introduce self- and co-regulation in the media sector. For example the flexibility needed due to a rapidly changing (societal and technological) context, the constitutional reasons for a distance between politics and the media, as well as the fact that goals of pluralism and diversity are difficult to operationalize into effective laws. It also proves hard to enforce self-regulation. Therefore, it is important to find the right mix. ‘Co-regulation’ or ‘regulated self-regulation’ implies an important, albeit shared, role for the state. In addition, ‘media governance’ is a new concept in this respect. This also implies the involvement of civic and professional groups and mechanisms like public hearings in the process of media regulation.

Traditional media politics has leaned heavily on the state as central actor that has tried to achieve pluralism with relatively unclear goals. Those days seem to be gone for good as in recent decades a “transformation of statehood” (Latzer et al., 2003: 128) has taken place in the media and telecommunication sector which can be traced by trends such as a change from protectionism to promotion of competition, the separation of political and operative tasks (i.e. independent regulatory authorities), the shift from vertical (sector-specific) to horizontal regulation, the transition from national to supra- and international regulation, and the change from state to self- and co-regulation in which private and societal partners are becoming more actively involved in regulation.

In this Commentary and Debate section, six authors affiliated with the Universities of Hamburg and Zurich, and the Austrian Academy of Sciences distinguish between state regulation, co-regulation, and self-regulation and demonstrate that both in the literature and in the policy practice many alternative forms of regulation on the continuum between state and...
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market based on collaborative arrangements between public and private partners have been elaborated on recently. The idea that market forces can simply replace government regulation has proven to be naïve. Instead of deregulation, we should speak of re-regulation. Also, the European Commission has been reflecting on new forms of regulation and governance. Its White Paper ‘European Governance’ (2001) emphasizes that co-regulation will be put to practice more and more. Although significant differences from country to country remain, for example between the Anglo-American legal model and continental Europe, the concept of the overarching state should be abandoned. The sovereign state has already made place for a corporate bargaining state, a partner embarking on partnerships with the industry.

In a theoretical background article, Patrick Donges demonstrates that media governance has gained in importance over the last few years, both as a scientific and theoretical approach for the analysis of media regulation and as a practical approach for new ways to regulate the media. He discusses the theoretical foundation of media governance, defines the term as a dynamic structure of rules among actors who are linked in different networks, connecting it to the new institutionalism concept in sociology.

Following up on this, Manuel Puppis considers media governance as a horizontal extension of government, covering not only statutory media regulation but also self- and co-regulation. These forms of regulation by private actors respect media freedom, while at the same time inflicting social responsibility on the media. The author discusses the role of the state in self-regulation, and argues that the government’s involvement depends on the governance domain, the type of media platform, as well as national peculiarities.

Identifying media concentration as a fundamental problem for democracy, Werner Meier and Irène Perrin qualify media policy as increasingly influenced and controlled by corporate media. The authors’ concept of media governance deals with the complex relationships of political, economic, and mass media power structures and is conceptualized as a multi-stakeholder approach which is supposed to ‘tackle’ complex conflicts of interest. Such a media governance approach surely is difficult to implement, but in the end it does not only help to legitimize media companies’ editorial and corporate actions but it also assumes their obligations towards society.

Michael Latzer tackles the question of how to decide on the adequate mix of state and alternative regulation from a public-policy perspective. Based on the weighing of advantages and disadvantages of various modes of regulation and on international experiences with different regulatory modes, the author presents a rough guideline for regulatory and institutional choice. This model may assist decision-makers in assessing regulatory institutional arrangements for regulatory problems in the communication sector.
Adopting a comparative approach, Matthias Kuenzler assesses the participation of the state in self-regulation as a potential key success factor (or not) for media governance. To this end, the author presents results from two empirical studies illustrating that the success of a state’s participation depends on the domain of governance and that the involvement of the state is not the only key success factor.

Thorsten Held plays the comparative card even more, assessing the European Commission’s stance as to the inclusion of co-regulatory systems when drafting the Audiovisual Media Services Directive (modifying and extending the European ‘Television without Frontiers Directive’). The directive explicitly allows for co-regulation as a way to implement the directive’s provisions including those for advertising and the protection of minors. According to article three, the member states shall encourage co-regulatory regimes in the fields coordinated by the directive. However, the term ‘co-regulation’ includes a variety of different approaches for different countries and different sectors. The author briefly sketches some major findings of his investigations.

Reference

The New Institutionalism as a theoretical foundation of media governance

Governance as a structure of rules

Governance is a new approach in the discussion on media regulation and has gained in importance over the last few years. As a more theoretical approach, we find the concept of governance in several scientific disciplines like political science, law, economics, or sociology, where it is applied to several theoretical levels and for a plurality of research questions. As a more practical approach, the concept is discussed in several countries with different traditions in media regulation. Nevertheless, the question whether governance is just a stylish buzzword or a plausible and useful approach is still in discussion (e.g., Benz, 2004).

In a broad sense, the concept of governance refers to the relations between actors and the ways in which these actors reduce specific risks and uncertainties within their interaction “in order to make cooperation