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Final report

Project output and areas for future research

Evangelia Psychogiopoulou (ELIEEP), Rachael Craufurd Smith (UEDIN), Yolande Stolte (UEDIN) and Anna Kandyla (ELIEEP)

March 2013

Project profile

MEDIADEM is a European research project that seeks to understand and explain the factors that promote or conversely prevent the development of policies supporting free and independent media. The project combines a country-based study in Belgium, Bulgaria, Croatia, Denmark, Estonia, Finland, Germany, Greece, Italy, Romania, Slovakia, Spain, Turkey and the UK with a comparative analysis across media sectors and various types of media services. It investigates the configuration of media policies in the aforementioned countries and examines the opportunities and challenges generated by new media services for media freedom and independence. Moreover, external pressures on the design and implementation of state media policies, stemming from the European Union and the Council of Europe, are thoroughly discussed and analysed.

Project title: European Media Policies Revisited: Valuing and Reclaiming Free and Independent Media in Contemporary Democratic Systems

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Introductory note

What did the MEDIADEM project accomplish and what ideas did it generate for future research? This report seeks to address these questions in a succinct and accessible manner by reviewing the project's scientific and policy output. The report critically evaluates the lessons learnt from MEDIADEM's research and the project's communication strategies for the diffusion of project findings to various stakeholders at the national and European levels. On the basis of the research conducted, it then considers follow-up research directions in the field of media policy and regulation and media freedom and independence. We hope that this document is of interest to researchers and scientific institutions, media policy makers, civil society and other interested individuals and organisations.

March 2013
The MEDIADEM project

1. Project overview

MEDIADEM is a comparative European research project on media policies and regulation in 12 European Union (EU) member states and 2 candidate countries. It is a joint, interdisciplinary effort of 14 partner institutions, and it is funded by the EU's Seventh Framework Programme. The project started on 1 April 2010 with a duration of three years.

The purpose of MEDIADEM has been to examine the configuration of state media policies and regulatory practices in 14 European countries and to explore their effects for media freedom and independence. In doing so, the project placed regulation, its shaping and implementation, in the proper national context, taking due consideration of domestic socio-political, economic, cultural and institutional factors. In addition, it has sought to understand the role the EU and the Council of Europe play in media policy and regulation. The ultimate aim of MEDIADEM has been to identify the policy processes, tools and regulatory instruments that can best support the development of free and independent media in Europe and to formulate policy suggestions addressing policy stakeholders at the national and European levels.

MEDIADEM's work plan has been structured in the following phases:

The **first phase** of the project served to define the concepts and the issue areas around which the research would be organised and to provide background information on the 14 media landscapes and systems reviewed.

The **second phase** involved empirical research on the media policy processes and institutional dynamics in the 14 countries under study, examining whether domestic media policy strategies, as framed and implemented, help realise media freedom and independence.

The case-study findings fed the **third phase** of the project which analysed in a cross-country and cross-theme comparative fashion the contribution (or not) of different media policy patterns and forms of regulation to the promotion of free and independent media across the countries reviewed.

The **fourth phase** involved the formulation of policy guidelines for the promotion of media freedom and independence targeting state and non state-actors involved in media policy-making, the EU and the Council of Europe.

Throughout the project, researchers have sought to disseminate research and policy-useful results as broadly as possible and establish regular channels for the exchange of views and opinions with the media community and key actors involved in the design and implementation of media policies, both at the national and the European levels.

2. Project output and impact

2.1 Scientific output and contribution to the state of the art

MEDIADEM has sought to advance knowledge in the field of media policy and regulation and has been structured in ways that have allowed for valuable contributions to be made.

Phase 1: Laying the foundations and setting the scene (April – October 2010)

Under the first phase of the project, two reports were produced:

- *a theoretical and methodological report* '[The formation and implementation of national media policies in Europe and their relationship to democratic society and media freedom and independence: A theoretical and analytical frame for the MEDIADEM project](#)' (October 2010); and
- *a background information report* '[Media policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe](#)' (October 2010).

The reports laid the theoretical foundations of the project and provided background information on the 14 media landscapes, policies and regulatory systems under review, as well as the media-related activity of the EU and the Council of Europe. They have:

- offered an overview of the academic literature on media policy, media regulation and media freedom and independence, placing the project within a broader set of academic studies on media policy and regulation;
- clarified basic concepts and analytical issues upon which MEDIADEM research was based;
- examined the configuration of the media ecosystems and the principal dimensions of the media policies in the countries under study, probing *inter alia* into the distinct socio-political, economic and cultural contexts in which policies for the media have developed;
- identified key policy structures and the main actors involved in media policy-making and conduct;
- examined the regulatory models (i.e. public and private regulation) and the principal instruments in use to govern the media;
- explored the implications of the media policies reviewed for democratic politics;
- discussed the role of the EU and the Council of Europe in media policy and regulation; and
- served as background for identifying key questions aimed at guiding empirical research – the next item on the project agenda.

Phase 2: National case-studies (November 2010 – December 2011)

The second phase of the project resulted in 14 *case study reports*, based on in-depth empirical research for each country case. These reports, entitled 'Does media policy

promote media freedom and independence? The case of Belgium, Bulgaria, Croatia, Denmark, Estonia, Finland, Greece, Germany, Italy, Romania, Spain, Slovakia, Turkey and the UK' (January 2012) (available [here](#)), sought to understand and explain the factors that affect the configuration of contemporary media policies in the countries examined, as well as to assess the contribution of the latter to the promotion of free and independent media. The reports:

- identified the various actors that participate in media policy development and application (i.e. state bodies, legislatures, regulatory authorities, the media industry and its professionals, other industry representative bodies, multi-stakeholder entities, courts, civil society organisations, etc.), examining the values and priorities that these recognise as relevant in the process, the degree of authority and power they enjoy, the levels at which they operate, and the ways in which they influence policy;
- investigated the processes and procedures through which legal rules and other policy measures are formulated and then put into practice;
- explored domestic regulation and policy measures concerning the configuration of the media market, media behaviour, and media literacy and education; and
- examined journalistic professional regulation, its monitoring and enforcement, as well as the conditions affecting the practice of journalism more broadly in the countries reviewed.

The analysis built on both traditional and new media services.

Phase 3: Comparative analysis (January– July 2012)

The third phase of the project, devoted to comparative analysis, led to two reports:

- *a collection of comparative reports* '[Media freedom and independence in 14 European countries: A comparative perspective](#)' (July 2012); and
- *a comparative report* '[The regulatory quest for free and independent media](#)' (July 2012).

Based on the project's empirical findings and the broader academic literature in the field of interest, these reports focused on pertinent questions and key issues affecting media freedom and independence in the countries reviewed, engaging in cross-country analysis. The first collective report:

- examined in a comparative fashion the freedom and independence of public service media in the countries under study, focusing on the arrangements made for their management, supervision, financing and remit;
- explored the complex interrelationship between politics and public service media, and the specific challenges faced by private/commercial media in terms of fulfilling their democratic functions in five Eastern European countries participating in the project;
- identified similarities and differences in policy and regulatory approaches concerning new media services in the countries reviewed;

- examined journalistic autonomy as a central value of professional behaviour and a precondition for free and independent journalistic speech, identifying the factors that support or constrain it in the countries examined; and
- explored the role of European courts (i.e. the European Court of Human Rights (ECtHR) and the European Court of Justice of the European Union (CJEU)) in the shaping of media policies and the protection of free speech in the countries reviewed.

The second comparative report engaged in a comparative analysis of the regulatory approaches currently in place in the 14 countries under study, adopting an integrated notion of 'media', in the light of the recommendation of the Council of Europe on a new notion of media (CM/Rec(2011)7), with a view to identifying common patterns and differences. This report:

- examined the constitutional safeguards for freedom of expression in the countries reviewed, investigating whether domestic constitutions act as drivers for particular forms of media regulation (public or private);
- considered different levels and forms of regulation in relation to structural regulation and content regulation for both traditional and new information services;
- explored different types of journalists' professional regulation;
- examined the implications of copyright law and policy for freedom of expression and media freedom, particularly in the online environment; and
- mapped media regulation across the countries reviewed, identifying the type, nature and main characteristics of both the regulatory institutions involved and the regulatory instruments in use.

Based on an inter-disciplinary approach, the reports produced during the various stages of the MEDIADEM project sought to provide in-depth, comprehensive information on the media policies of the selected set of EU member states and candidate countries from the perspective of media freedom and independence.

The reports of the first and second phases of the project have addressed the concepts of 'media freedom', 'media independence' and their interrelationship, delving into the array of pressures facing contemporary media that may constrain the fulfilment of their designated democratic tasks. By combining a country-based study with an analysis across media sectors and types of media services, the reports have also depicted the complex array of policy approaches and the variety of the regulatory forms and tools established to govern the media in the countries examined. One of the main issues discussed in the literature has been the fundamental restructuring of media policies in the face of rapid technological change, the impact of regulatory processes beyond the state, and changes in the dominant ideas regarding regulation and the nature of media in society. Against this background, the reports have analysed the relationship between the economic, technological, socio-political and institutional factors that influence the development of the media policies in the countries reviewed, paying attention to both policy formulation and policy implementation processes; investigated how media policies are currently reconfigured under on-going pressures for deregulation and under the impact of technological evolution, European integration and pressures from the

global economy, drawing attention to the contribution of distinct actors in such a configuration; identified key trends and concerns relating to the operation of free and independent media, both for traditional and new media services in the countries discussed; and assessed the success or failure of the media policies, as framed and conducted, to address these pressures. In doing so, the reports have provided a rich source of information that is expected to assist researchers and scholars who pursue systematic inquiry into the media policies of the countries reviewed. In some of these countries, the MEDIADEM reports constituted first reference documents, dedicated to the study of both media policy formulation and implementation, with due note taken of the multiplicity of the actors that have a bearing in the process. In other countries, MEDIADEM's research has enriched existing literature by considering issues that had somehow received limited attention (for instance the independence of the media system under study as opposed to the issue of media pluralism which has generally formed the object of considerable analysis).

The comparative reports have similarly adopted an inter-disciplinary approach and have engaged in multi-layered analysis, identifying key issue areas for cross-country examination. MEDIADEM's country selection has proved particularly helpful in this respect, allowing for interesting comparisons to be made. This is because the project has covered a diverse range of countries, including West European countries, which have, in principle, established media policies and institutional structures, alongside Eastern European countries, which have experienced considerable volatility in the development of their media policies and institutions during their transition to democracy. Notably, the project has also covered a large extent of the variety of European media markets in terms of size, competitive strength and levels of media development, in addition to their diversity in terms of the interrelationship between media structures and political systems.

Regardless of country, the comparative reports show that protecting and promoting free and independent media requires careful consideration of a variety of issues, because in the increasingly complex media ecosystem protection offered in one area may be undermined by exposure to pressures in another. The reports offer useful insights into the multiplicity of constraints affecting free speech and independent media behaviour, as these arise from the world of politics, business interests, commercial and technological pressures, human rights failures, and failings in the policy-making and the regulatory process. Differences both as regards the type of constraints identified and their intensity inevitably exist among the countries reviewed, but notably, they are less pronounced where pressures have a more general impact, such as those stemming from economic hindrances, commercialisation, technological developments or deficiencies in the regulatory process. Even in these cases, however, the analysis shows a great deal of variation characterising national media policies and regulation, instead of exhibiting substantial convergence in accordance with particular ideological, economic or technological imperatives. The comparative reports seek to reflect this diversity when discussing policy patterns and regulatory practices, and also make an effort to identify best practices, when available. From this perspective, they offer a pertinent basis for assessing existing policy and regulatory models and might also prove helpful

for the development of new conceptual frameworks for policy actions that support media freedom and independence in the new media ecosystem. Key themes dealt with by the project such as the role of courts (both domestic and European courts), private regulators, professional journalists, and public service media are expected to attract increased attention in this context.

Besides the above mentioned reports, other scientific contributions of the project based on collective effort include:

- the edited volume *Understanding media policies: A European perspective* (2012, Palgrave Macmillan) (ed. E. Psychogiopoulou);
- the contribution of three chapters to the edited volume *The independence of the media and its regulatory agencies. Shedding new light on formal and actual independence against the national context* (2013, Intellect) (eds. W. Schulz, K. Irion and P. Valcke) ;
- an edited volume *Media policies revisited: The challenge of media freedom and independence* (forthcoming) (ed. E. Psychogiopoulou); and
- a special issue in an international open access scientific journal (forthcoming) (eds. R. Craufurd Smith and Y. Stolte).

Relevant reports and publications have made an effort to raise awareness of the complexity of contemporary media policies, in terms of subject matter, institutions and processes, and have disclosed the crucial role media policies play in supporting or conversely, undermining the development of free and independent media, making a useful contribution to the state of the art on media policy literacy.

2.2 Policy-related output and impact on media policy and policy-making

Effective dissemination of the project findings was considered to be key to MEDIADDEM's success from the start. Accordingly, the project was organised with dissemination firmly in mind, so as to lead, in policy terms, to focused, relevant and accessible research findings. All project partners were invited to consider their research in the context of a broader dissemination strategy that was devised; explore the multiple ways in which their research findings could lead to useful policy-related output; make their material accessible to different audiences and target groups; and spend time forming contacts and developing networks with specific communities of interest both at the national and the European levels.

With a view to contributing to media policy development, the project team produced a [collective policy report](#) presenting the project's recommendations for the promotion of media freedom and independence (October 2012). The report comprises:

- 14 country policy papers addressing state and non-state actors involved in the design and implementation of media policies at the national level;
- a policy paper targeting the EU and the Council of Europe; and
- a matrix of the regulatory structures and institutions in the 14 countries under study.

The country policy papers put forward succinct recommendations for national policy-makers and other stakeholders on the basis of the research carried out, with due account taken of domestic specificities, failures and needs.

The policy paper focusing on the EU and the Council of Europe was based on the findings of the case-study and comparative reports of the project. Aimed at improving policies and regulations for the protection of free and independent media, it advances ten recommendations addressing the EU institutions (collectively or individually) and/or the Council of Europe. These are: a) fostering a more integrated approach to media policy; b) adopting a technology-neutral approach to media regulation; c) accelerating the shift from public service broadcasting to public service media; d) revising the relationship between ex ante regulation and ex post competition policy, taking into account new technological developments; e) improving governance and providing for sound institutional arrangements at the national and EU levels; f) strengthening institutional and governance arrangements at pan-European level; g) refining and strengthening the evaluation of private regulation in the media domain; h) enhancing coordination of the journalistic profession at the European level; i) striking a more even balance between copyright protection, internet neutrality and freedom of expression, in particular on the internet; j) improving the implementation of the rulings of the European Court of Human Rights and promoting new forms of judicial cooperation.

The collective policy report concludes with the regulatory matrix. This presents the regulatory 'architecture' in the countries reviewed and suggests areas for improvement particularly as regards independent regulators and private regulators.

The collective policy report was drafted in English but in order to strengthen the dissemination of the project's policy-related output, particularly at the national level, the country policy papers were also made available in the official language(s) of the countries of the project. As a means to encourage the sharing of results and strengthen communication among national and European policy actors, the translated country policy papers were also supplemented by a concise summary of the project recommendations addressing the EU and the Council of Europe.

In order to facilitate the communication of key policy messages stemming from the project's research, three policy briefs were additionally prepared. The [first policy brief](#) (June 2011) built on the research carried out during the first phase of the project. It made some key observations on how policy-makers may understand 'free and independent' media and formulated broad policy recommendations for their promotion, identifying three lines of policy action, each accompanied by specific suggestions: a) introducing and maintaining a legally enabling environment; b) promoting professional standards and journalistic ethics; and c) strengthening media literacy. Policy-makers and the broader media policy community were invited to consider who is best placed to take action in these areas: the state, media organisations, journalists, civil society, citizens or a combination of the foregoing.

The [second policy brief](#) (September 2012) drew on research completed during the first two years of the project. It provided an overview of the main constraints or threats to the operation of free and independent media in the countries under examination and put forward specific recommendations as to how these concerns might be addressed by the various stakeholders involved in media policy formulation and implementation at the national level: the state, regulatory bodies, the judiciary, the industry, public service media, professional organisations, trade unions and journalists, civil society organisations, academics and citizens. Seven key messages were advanced: a) ensuring that the development of media policy is coordinated, evidenced-led, forward-looking, open and transparent; b) ensuring timely and effective compliance with international guarantees of freedom of expression and information; c) addressing inappropriate political influence on both public service and commercial media; d) updating regulatory rules and structures in the light of convergence; e) supporting the development of a plural media environment; f) monitoring and controlling media ownership; g) developing or maintaining quality journalism and supporting media literacy.

The [third policy brief](#) (March 2013), based on the research carried out throughout the duration of the project, was devoted to the role of the EU and the Council of Europe in supporting media freedom and independence. It discussed key areas of concern in relation to the development of policies that create an enabling environment for media freedom and independence, identified key pressures on the operation of free and independent media and made recommendations as to how these constraints and pressures may be addressed by the European institutions and other stakeholders active at the European level. Seven recommendations were considered worthy of careful consideration: a) adopt an integrated notion of media for technology-neutral policy-making; b) improve media governance arrangements; c) improve the implementation of ECtHR judgments; d) mainstream free speech, media freedom and pluralism in EU law and policies; e) make appropriate procedural arrangements for the mainstreaming of fundamental rights in EU law and policies; f) strengthen the independence of public service media and their openness to the public as a means to guarantee free speech; and g) reach a better understanding of journalism and the challenges it faces.

With a view to maximising the transfer of the project's policy-related findings, a variety of events were also organised. Mention should first be made of three thematic case-study workshops, which took place at key stages of the project in order to discuss findings and gather feedback from policy-makers, civil society and fellow academics and researchers:

- [Media policies and regulation for free and independent media](#), co-organised by the Hellenic Foundation for European and Foreign Policy and the Association of European Journalists – Greek Section, 30 June 2011, Athens, Greece;
- [New media, old values? Media freedom and independence in the era of convergence](#), co-organised by the University of Edinburgh and Open Rights Group, 9 December 2011, Edinburgh, UK;

- [Journalists' professional autonomy and journalism ethics](#), organised by the University of Jyväskylä in co-operation with the Union of Journalists in Finland and the Federation of the Finnish Media Industry, 14 June 2012, Jyväskylä, Finland.

Following the publication of the collective policy report, 14 national workshops were also organised - one in each country covered by the project - in order to share country-specific policy findings with the media policy communities of the countries reviewed (see [here](#)). Throughout the duration of the project, dissemination of key policy messages further took place through the participation of project partner in various national or international workshops and conferences and the organisation, at their own initiative, of several events.

The final conference of the project [Media freedom and independence: Trends and challenges in Europe](#), took place in Brussels, Belgium, on 7 February 2013. It was co-organised by the Hellenic Foundation for European and Foreign Policy, the European Platform of Regulatory Authorities and the Association of European Journalists, and it was hosted by the Representation of the Free State of Bavaria to the European Union. The conference, which generated much interest and exciting debates, served to present MEDIADEM's scientific and policy-related output to the European media policy community.

All these activities and events allowed MEDIADEM to a) serve as a forum for the exchange of views and ideas among interested parties and individuals; and b) engage various stakeholder groups in debates about the contribution of media policy and regulation to the protection and promotion of free and independent media. In many of the countries under study, through the contacts developed with policy-makers and other stakeholders, the project has raised awareness of the multifarious ways through which media policy may assist in the development of free and independent media. Debate has allowed a better understanding to be reached of the complexity of media policy as such, particularly on account of its positioning in a system of multi-level governance, and of the importance of free and independent media for democratic processes. Also, it has served to channel attention to distinct policy axes that merit consideration, making clear that these need to be addressed simultaneously for meaningful policy results, supportive of media freedom and independence, to ensue.

In other countries, MEDIADEM's dissemination activities have created opportunities to single out specific policy issues that had somehow remained at the fringes of the policy agenda, stimulating debate on what could be viewed as 'new' or 'forgotten' topics and themes. Interviews with legislators and representatives of public and private regulatory bodies have also been helpful in this respect because besides assisting researchers in gathering information and opinions on specific policy issues, they have served to draw the attention of interviewees to critical issues that require careful consideration.

An important contribution of the project which should not go unnoticed is that in some of the countries under study the project has succeeded in bringing together

policy-makers and other communities of interest. This is important not only because interest in media policy and regulation varies considerably from country to country but also because differences in institutional agendas and policy approaches had sometimes obstructed fruitful discussion. The debates that took place between public and private regulators, media representatives, journalists, academics and civil society facilitated the exchange of opinions in some countries, fostered a more collaborative environment, and notably, promoted an understanding of each group's responsibilities concerning the challenge of realising free and independent media.

This said, it is extremely difficult, if not impossible, to gauge the impact of the project on policy-making in terms of attributing specific policy changes or reforms under consideration to the work of the project. This is not only because reforms require time for reflection but also because possible links between research and policy-making are not necessarily visible and, in any case, certain. Although in some countries, there are indications that some of the project's suggestions have been given consideration in the context of new legislative or other policy proposals and activities, the MEDIADEM consortium is not in a position to assess whether the work of the project has triggered any specific changes. Nevertheless, it should be noted that support to the project and feedback on its findings have been provided in many instances, and notably, in some of the countries under study, MEDIADEM's researchers were invited to discuss research findings in more detail with policy-makers, regulators and key stakeholders, such as media outlets and journalists. On this basis, it can be concluded that the project has at least served to *inform* policy-making. It has done so by producing a rich source of information on the media policies of the countries reviewed, offering both a country-specific and a comparative perspective, and has pointed to the implications of the policies conducted for media freedom and independence, in a period of profound reflection concerning the changes brought to the media ecosystem and the questions that these raise for policy and regulation. Quite importantly, MEDIADEM's findings and policy recommendations have also found resonance with, and been reflected in the work of research and policy consulting groups, such as the High Level Group on Media Freedom and Pluralism or the Centre for Media Pluralism and Media Freedom, which have been invited by the EU to 'provide a set of recommendations for the respect, the protection, the support and the promotion of pluralism and freedom of the media in Europe' and explore 'EU competencies in respect of media pluralism and media freedom', respectively.¹ From this perspective, MEDIADEM has been a timely project, forming part of a broader set of initiatives concerned with the state of the media in Europe, media freedom and pluralism.

For sure, the terrain explored by MEDIADEM will continue to attract interest because the issues and problems identified are not likely to be easily resolved. Collaborative

¹ High Level Group on Media Freedom and Pluralism, A free and pluralistic media to sustain European democracy, January 2013, http://ec.europa.eu/information_society/media_taskforce/doc/pluralism/hlg/hlg_final_report.pdf; Robert Schuman Centre for Advanced Studies, The Centre for Media Pluralism and Media Freedom, European Union competencies in respect of media pluralism and media freedom, <http://cmpf.eui.eu/Documents/CMPFPolicyReport2013.pdf>, date accessed 19 March 2013.

research in the field remains essential and new research avenues will need to be explored. Some of these, identified in the course of the project, are discussed in the following section.

3. Areas for follow-up research

3.1 The effect of new technologies on news media markets and the media profession

Over the last two decades the rapid development of new technologies and the potential offered by the internet has had a profound effect on media markets. Traditional media outlets are faced with a significant increase in competitors and need to exploit newly emerging revenue streams in order to survive. While a greater number of media companies in theory can lead to greater media plurality, this is not always the case. The practice of 're-cycling news stories', or the simple copying of content from a source, as well as increasing reliance on agency and PR copy, can diminish the information made available to the public in real terms. A multidisciplinary study into the impact of media concentration and competition on the quantity and quality of journalistic content could help to inform regulatory intervention in Europe. Consideration of the development of news media markets in a representative range of European countries would add to the existing literature, much of which has to date come from the United States. Analysis of the sources of news content, for example, agency copy, PR material, or investigative journalism, would be an essential component of such a study, as would be the impact of non-professional media outlets and sources.

New technologies have also changed what is required of journalists in terms of output and skills, putting them under significant pressure to produce more content, across a range of different platforms. A second related study could thus examine evolving employment practices relating to journalists, with particular reference to the impact economic pressures are having on professional standards, the practice of self-censorship and the nature of journalistic autonomy.

A third strand of investigation under this head concerns the long term viability of the newspaper industry in Europe and the consequences for media plurality should the newspaper sector fail. As noted above, the newspaper industry is struggling in most national markets, partly due to the free availability of online news websites and changing consumer consumption patterns. Some newspaper websites have started charging for their online content, with varying degrees of success, but this is not currently sufficient to survive in the market. Consideration could thus be given to how newspapers themselves are diversifying and seeking to remain viable as well as different models of government support, covering initiatives such as cross-subsidies, charitable trusts and direct and indirect government subsidies. Some countries, such as France, are considering taking a more experimental approach, such as imposing a levy on intermediaries when they link to news stories and using the proceeds to support the newspaper sector. Further research could thus compare the different measures taken in a range of representative countries to support the print sector

with a view to identifying ‘best-practice’ in resolving the current crisis. This would involve empirical research into pricing strategies and the various support mechanisms as well as their practical impact on media content, its diversity and quality, and the market position of the media outlet and its competitors. The study should also explore the impact of state subsidies for public service media on this area (see also suggested study 3.7 below).

3.2 The effect of new technologies on regulatory structures and regulatory capabilities

Legal frameworks and regulations adapted to institutionalised mass communication cannot simply be transposed to cover the full range of new forms of communication. Given the increasingly international nature of media markets, it is important to understand how the law is developing in light of these changes. A specific issue that is currently causing difficulties is how to define the term ‘journalist’. While many European legal systems offer specific protection to journalists, there is no single accepted definition of journalist. Is a blogger a journalist? Should he or she be afforded the same protection as a ‘professional’ journalist? A related question is whether internet-based publications benefit from the same protection as the traditional press. Is there, for example, a right of reply to online news content from a non-professional source? The issues here are also closely linked to those noted in section 3.4 below.

Consideration should also be given to the increasing influence of international players on domestic media markets, often operating outside domestic jurisdictions, and how member states are seeking to address these challenges, either alone or in collaboration.

3.3 Copyright, intermediaries and public access to information

New entrants into the media market have provided new ways to access news, entertainment, and information. Changing distribution mechanisms bring into question existing regulatory approaches and create serious challenges for the intellectual property rights regime relating to media content. A delicate balance needs to be found between protecting freedom of information and public access to information on the one hand and protecting intellectual property and economic rights, which ensure the continued production of media content, on the other. Several aspects of this field merit further study. One of the most pressing aspects concerns the role of internet service providers (ISPs) and intermediaries such as news aggregators, search engines and social networks in linking to and distributing third party content. Though intermediaries assist the public in finding and accessing information, they earn a considerable profit from linking to copyrighted content and their market position may make it difficult for copyright owners to agree attractive or equitable rates of return. Aspects of ISP and intermediary liability for copyright infringement remain unclear, as well as the role and responsibilities that ISPs should play in combating copyright infringements. This area thus warrants further attention and is closely linked to the concerns identified in 3.1 above.

A related question concerns the impact of intermediaries on public access to information. Search engines increasingly dictate what the public access online, thus enabling intermediaries to exert considerable control over the flow of information. Where the public rely on just one or two principal search engines this could prove problematic from both a democratic and social perspective. The number of privately regulated agreements between ISPs, intermediaries and right holders in order to control online copyright infringements is increasing. Such arrangements can affect users' rights, and cover matters relating to privacy, personal data, freedom of expression and access to the internet, but the content of such agreements is not available to the public. This warrants further study to analyse the impact that private regulation of this type, notably through contract, is having on freedom of expression and other fundamental values and how a transparent and equitable balance can be struck between the competing interests at stake.

3.4 Implementation of EU media law and regulation in Member States and candidate countries

The EU has sought to harmonise aspects of media law and regulation in countries with very different media structures and cultures. In particular, media policies, consumption patterns and the adoption of new media in the post-socialist countries vary considerably. This provides an interesting opportunity to study the drivers of media policy and regulation in developing media markets as well as the potential for future convergence. More generally, there is scope for a comparative study into how the EU member states and candidate countries have adopted and are adopting the EU's *acquis communautaire* and accession criteria in the media field. Is this process seen simply as a matter of technical adaptation of national regulatory frameworks or do states also aim to change prevalent social values in order to adapt the media to European norms? Such a study could provide important indicators for the process of integration and harmonisation.

Specific consideration should be paid to how these norms are being adapted to the new communications environment. For understandable reasons, much the CJEU and ECtHR case law refers to the traditional media - press and broadcasting. Only relatively recently, have these bodies been called to consider internet-related cases in their work. Judgments in the field range from web-hosting liability (CJEU) to protection of journalists when reproducing verbatim statements in online publications (ECtHR). Further study is warranted to assess the existing legal standards created by the CJEU and the ECtHR and how, if at all, these standards can be transferred to the online context. Are distinct legal norms instead being developed for internet-related publishing?

3.5 The role of the European institutions in the development of a 'European media code'

During the research for the Mediadem project it became apparent that the ECtHR has developed a profound and comprehensive body of legal standards. Further

guidance has been provided by Council of Europe declarations and recommendations and from the EU institutions, for instance in relation to hate speech and media pluralism. These standards serve to protect media freedom and independence, with the ECtHR in particular addressing matters such as libel and defamation, protection of sources, privacy and the positive obligations of states to adapt their laws in order to provide a free and independent space for democratic discourse. Future research projects could examine these legal standards, how the states and state organs have reacted to the directions given, and whether it is premature to speak of a common European media law. The Mediadem research indicated considerable divergences in the way in which countries have adopted and implemented rulings by the ECtHR and studying these differences and commonalities and the underlying causal factors, such as judicial awareness, could enhance our understanding of when and how norms are adopted and integrated into different legal frameworks. This could highlight the factors that serve to enhance the effective adoption or resonance of European norms within domestic legal systems and raise awareness of the already existing code of European media law standards.

3.6 Ensuring a meaningful and democratic public space

The EU member states are committed to democratic government and the media play a crucial role in this process: traditionally, in imparting information and forming opinions and, more recently, in allowing citizens to participate directly in decision-making processes. In both instances the media establish a common space in which information can be shared. Based on Mediadem's findings, it is clear that such a space for public discourse is not automatically generated, but needs to be established and safeguarded. There is thus scope to examine the conditions under which such a space can be established and will flourish.

A future research project could thus a) examine and summarise, with reference to a representative range of European countries, the specific characteristics of a meaningful and democratic public space. From there, b) several basic values could be derived. Finally, the study could examine how these values can be implemented in the various media sectors, including online media. Consideration of different media forms - video, audio, text etc. - remains relevant because although the means of transmission may be converging these media may still perform different functions. Similarly, the study should explore the present and potential contribution to democratic debate made by both commercial and public service media.

3.7 Balancing the needs of public service media and commercial broadcasters. The impact of EU state aid rules on the functions of public service media and their contribution to democratic discourse

The final research project that the Mediadem partners would like to propose in light of their research concerns the impact of EU state aid law on public service media. The European Commission decided in several state aid procedures that the financing regime for public service media had to be revised. In Germany, this led to a comprehensive re-evaluation of the provision of online services by the public service

providers. While the new German regulations might serve the market interests of the commercial broadcasters and the press, they simultaneously curtail the capacity of public service media to provide socially relevant services. The question arises whether the balance struck under articles 106 and 107 TFEU between economic and public interests adequately recognises the democratic role of the media in society. A research project to explore these issues could a) systemically compare the various state aid interventions that have taken place under EU law to date and the principles established in those cases, b) compare and assess the practical impact on public service media and c) discuss whether a new legal regime or guidelines should be adopted to further reflect the societal and democratic functions of the media in a changing communications landscape.