

# PRECURSORS TO THE FREEDOM OF PRESS: EVOLUTION OF FREEDOM IN SPEECH AND EXPRESSION

**Amit Verma**



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# CONTENTS

<b>Chapter 1.</b> Rethinking Freedom of Expression and Media Freedom .....	1
— <i>Amit Verma</i>	
<b>Chapter 2.</b> Freedom of Expression in Transition.....	9
— <i>Sourabh Batar</i>	
<b>Chapter 3.</b> Beyond Positive and Negative Conceptions of Free Speech .....	17
— <i>Bhirgu Raj Maurya</i>	
<b>Chapter 4.</b> Freedom of Expression as a Public Service.....	24
— <i>Yogesh Chandra Gupta</i>	
<b>Chapter 5.</b> Exploring the Vision towards a People’s Internet .....	32
— <i>Pradip Kumar Kashyap</i>	
<b>Chapter 6.</b> The Democratic Dynamics of Government Consultations .....	40
— <i>Dal Chandra</i>	
<b>Chapter 7.</b> The Commercial Constraints on Speech Limit Democratic Debate .....	47
— <i>Amit Verma</i>	
<b>Chapter 8.</b> Killing the Golden Goose .....	55
— <i>Sourabh Batar</i>	
<b>Chapter 9.</b> Upholding the Division between Editorial and Commercial Content in Legislation and Self- Regulation .....	62
— <i>Bhirgu Raj Maurya</i>	
<b>Chapter 10.</b> Blurring the Boundaries in Practice.....	69
— <i>Yogesh Chandra Gupta</i>	
<b>Chapter 11.</b> Audience Advertising Fatigue and New Alliance to Fatigue Content in Broadcasting... 76	
— <i>Pradip Kumar Kashyap</i>	
<b>Chapter 12.</b> Online Life in a Commercialized World .....	84
— <i>Dal Chandra</i>	
<b>Chapter 13.</b> Self-Regulation and Regulation of Content.....	92
— <i>Sourabh Batar</i>	

## CHAPTER 1

### **RETHINKING FREEDOM OF EXPRESSION AND MEDIA FREEDOM**

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#### **ABSTRACT:**

The environment for free speech and free media have changed significantly since Jefferson's time, despite the fact that the idea of free speech has essentially remained constant over time. Despite worries about governmental monitoring, today's globe is generally more democratic and there is less official censorship (at least in some areas of the world). Journalism is made more vulnerable and less independent from commercial interests by market pressure on media funding methods and market-driven notions that claim the state shouldn't "interfere" in the media ecosystem. This book examines these shifting market and governmental dynamics. We want to make it at least a little bit more challenging to talk about free speech without addressing these modern issues. The following chapter of the book is an expanded version of Professor Ulla Carlsson's opening remarks at the conference Communicative Democracy: Protecting, Promoting, and Developing Free Speech in the Digital Era, which was held at the University of Gothenburg in Sweden in October 2015. Professor Carlsson holds the UNESCO Chair on Freedom of Expression. The conditions of free expression have dramatically changed in a number of ways as a result of technological advancements

#### **KEYWORDS:**

Advertising, Commercial, Freedom, Media, Public, Speech.

#### **INTRODUCTION**

A free press and free speech go hand in hand, and both are necessary for a democratic society. The main author of the American Declaration of Independence, Thomas Jefferson, stated in 1816: "Where the press is free and every man is able to read, all is safe" (Jefferson 1816/1900). And as the Leveson report from the UK earlier this decade emphasised, "With these rights, however, come responsibilities to the public interest: to respect the truth, to obey the law, and to uphold the rights and liberties of individuals." In other words, to uphold the ideals that the business itself has declared and defined [1], [2].

As shown by various publications the relationships between the government, the market, the media, and the public have changed, and there are now many obstacles to freedom of speech. Along with the state, other players such as the media and larger market actors also have an impact on the circumstances of speech. Tensions arise from how other rights, like those related to gender equality, privacy, and commercial activity, are balanced pushes the standards embodied in self- and free speech regulation in sometimes opposing directions. From a Nordic viewpoint, the subject is quite current because it falls on the 250th anniversary of the Swedish Press Act of 1766, which was passed 50 years before Jefferson made his comment, stated above, and is the oldest constitution in the world to guarantee free speech and the press [3], [4].

This book's main objective is to highlight market-related threats to free expression and how it might be developed, defended, and promoted at a time when the distinctions between journalism and advertising are becoming increasingly hazy. Its reach extends to both structural and personal levels. It examines conflicts between freedom of expression that is "democracy-driven" and "market-driven" (terms that are discussed below). The book specifically addresses three current conflicts and discussions. Part II examines the current media market conditions and their connections to journalism and other forms of public speech; Part III considers various restrictions and control of media content, both regulatory and self-regulatory. Part I focuses on the governance of freedom of expression and the various possible roles of the state in protecting and securing free speech. The goal of the book is to create fresh viewpoints on the interactions between many players, including the state, market, media, and civil society.

There are contributions from experts in law, media studies, and philosophy in this multidisciplinary collection. It is also the outcome of a research endeavour that combines legal and journalism studies.<sup>1</sup> Nearly all of the chapters were created through in-depth debates on the papers presented at the aforementioned Communicative Democracy conference, which lasted two days. The cross-cultural debates with academics from Austria, Finland, Germany, Norway, Sweden, Spain, the UK, the United States, and Australia revealed startling parallels and variations across diverse legal cultures with regard to freedom of speech and media systems. Particularly in the fields of law and media studies research, the discussion in these (western) regions of the world appears to have been biased in favour of American and English viewpoints. However, various western legal systems and media platforms handle free speech in different ways, which might provide intriguing ideas for academics throughout the world. Our goal in writing this book is to give voice to some of these other methods to dealing with free speech, to provide a dialogue between them and more established Anglo-American perspectives, and to, at the very least, somewhat rethink the field of free speech analysis [5], [6].

We have created the conceptual distinction between democracy-driven and market-driven freedom of expression to capture one set of conflicts between diverse notions of free speech and its link to various ideals (Svensson & Edström 2014; Edström & Svensson 2016). This difference denotes two ideal kinds or rationalities utilised to comprehend and explain processes that are largely visible at an aggregate level, according to Edström and Svensson (2016:69), as well as to depict a tension between the two rationalities themselves. The ideas of "market-driven" and democracy-driven freedom of expression is viewed as being at two opposite extremes of a continuum, each with its own set of assumptions and rationales. Both advocate for broad freedom of expression, but they do it in very different ways. There are a number of significant variations, including how journalism is used and how it is protected, how freedom of expression is framed and anchored in a larger framework of democracy and economics, and how the fundamental components of freedom of expression are regarded. There are further problems.

Which terms ought to be safeguarded against (possible) governmental limitation is one of them. Another is the conceptualization and evaluation of various forms of expression in terms of "political" speech, "commercial" speech, and so on. Additionally, there are concerns regarding who (or what) should decide the limits of free expression as well as whose legal subjects' interests should be safeguarded (ibid.). The conceptual distinction between positive



and negative free speech may be used to tackle the question of who is the actor when it comes to determining the parameters of free speech (Kenyon 2014). In a nutshell, the problem is how the state (represented by political and judicial authority) interacts with people. When it comes to defending free speech, the major issue is whether the state is expected to be "active" or "passive." Does free speech and the purposes that are stated to support it need some types of official activity, or is the lack of overt state interference sufficient to protect it? Who else has authority or responsibility to act, based on the role and expectations of the state? One recurring subject in this book's chapters is the idea that the state always has an interest in matters of free speech; rather, it is vital to discuss specific sets of legally recognised systems that cover both free speech and free media. The systems come in a wide range of shapes.

## DISCUSSION

It might be interpreted as involving various ideas of what freedom implies. Understanding the media in terms of several media system models (Hallin & In terms of evolving media ecologies (McLuhan & McLuhan 1988; Logan 2015), as a specific state-centered paradigm (Syvertsen et al. 2014), or in terms of Mancini (2004), heterogeneity is present maybe more than ever before (or at least more so than in the era of "broadcast news"). Media can be supported by governmental funding, private funding, or a combination of both. Although the phrase "dual media system" is frequently used, it can mean a variety of things, including distinctions between press and broadcast media or between public media and commercial media in general. The first distinction may be self-evident, but the second is implicit in the Swedish context and is explained by the legal treatment of free speech in two constitutional Acts, each of which is based on the media types that are regulated: the press on the one hand (or, in fact, printed materials that go well beyond what is commonly understood as "the press," on the other), and television and radio on the other. The idea of a dual media system in Sweden may be related to either understanding (there is also a third constitutional Act that is most pertinent to individual speakers).

Traditional public service media's difficulties and the generally lax constitutional protections that such programming frequently enjoys are hot topics in many western nations. Commercial media organisations dispute public service media and other types of governmental subsidies, such as press subsidies, by drawing on a market logic of competition actors in the media and certain politicians. There are now several discussions focusing on the alleged competitive advantage of public service media in comparison to commercial media, possibly mainly in Europe. There are arguments made that public service should only encompass activities that stand out from what commercial actors undertake. This kind of argument frequently rests on an understanding of economics and market regulation, hiding the function, value, and significance of media for the general people. These characteristics involve universality and diversity as key components of the media's public value and can be understood in terms of serving "the public interest, and /.../ encourage increased equality, integration and participation in society by means of creating and facilitating an informed public debate" [7], [8].

### **Tensions, The State, and Free Speech**

With contributions that interact with concepts regarding freedom, the state, public service, and governance, Part I focuses on the governance of freedom of expression and the many possible responsibilities of the state in guaranteeing and defending free speech. Beginning

with an approach that considers both positive and negative dimensions of free speech, Andrew Kenyon argues that both diversity and non-censorship are essential components of freedom. He examines the structural ramifications of this strategy for exercising free speech, focusing in particular on "Who acts and how?", "What do they do, and why? ", etc. About democratic state institutions. The research implies a paradox of free speech, where institutional actors find it difficult to behave in a way that promotes diversity in public discourse, which appears to require institutional backing from the state. By recognising the difficulties, free speech may develop into a freedom that is more substantive than just formal.

The concepts of positive and negative freedom of expression are the starting points for Kari Karppinen as well, but she aims to go beyond them by investigating two different paths: a capacities approach to free speech and "agonistic" democratic theories. Karppinen contends that, when examining what freedom means in the context of various methods, no one institutional ideal or organising principle—such as public service institutions or free market competition—can provide a guarantee for communicative freedom. This suggests that media systems should include a range of overlapping and mutually reinforcing systems or logics, as well as room for critical voices and societal viewpoints that are constrained by the present public discourse frameworks. The media system proposed here, when placed in a modern context, somewhat mirrors ideas put out by Curran (1996) and others (Baker 2007).

For Hans- Gunnar AxBerger, reevaluating concepts in a modern setting is a priority. He examines the idea of "public service" and advises that it be reinterpreted for the age of new media, using Sweden as an example and taking press and broadcasting traditions into account. Instead of referring to a specific group of public institutions, public service would be considered to be a constitutional obligation. This might prevent the risks of media becoming too closely intertwined that Berger now faces. Victor Pickard is also interested in doing the public good in terms of media content. He refers to US trends that have resulted in a limited number of firms controlling the nation's media system, lax regulation of public interest material, and inadequate public media alternatives to huge corporate platforms as "corporate libertarianism." He analyses the philosophical and historical foundations of US corporate libertarianism and suggests a reform agenda that involves the state playing a more active role in the establishment of public spaces for journalism. Pickard's study suggests that the First Amendment could promote prospects for free expression and press freedom. Its main goal would be to provide media with a variety of views and perspectives, something that is currently lacking in US media [9], [10].

The contribution from Katharine Sarikakis is similarly motivated by a concern for governmental commitments. She makes a compelling case that it is impossible to analyse media and speech freedom in Europe without taking the complicated effects of the financial crisis into account, particularly as they relate to European public sectors and public spheres. The media continue to play a significant part in the crises' intense commercial demands while also actively supporting the efforts of citizens to self-govern. There are clear conflicts between these two aspects, with the press, media, and (often connected) political interests restricting journalism's capacity to inform the public, particularly in relation to specific contentious issues (often connected to the crisis) and political dissent more broadly.

The emphasis is shifted to voice and its role in government by John Morison. He looks at how governments are using consultation and e-consultation methods more and more, relating this to the concepts of free speech and stating one's mind. How can modern technology

provide individuals a voice that matters? Morison emphasises the value of listening and the potential for consultation to silence or, alternatively, to empower subaltern counter publics who may be able to develop alternative interpretations and push alternative conclusions than would otherwise emerge by describing the current nature of consultation. The democratic notion implies certain things about free speech, just as it does how to more effectively assess consultation sufficiency.

### **Between Journalism and Advertising**

In Part II, writers look at the current state of media markets and how that affects journalism and public discourse. The monetization of social relationships, the need for authenticity in online interactions, and different features and ramifications of the emergence of native advertising and efforts to control it are all addressed in the contributions. Beginning this Part, Justin Lewis focuses on how the market itself promotes some forms of communication while effectively stifling others. In his view, when commercialization increases, we should pay greater attention to its ideological influence as it becomes more prevalent inside media and media finance. Freedom of expression is being restricted in numerous ways by advertising. It reduces political variety, prefers some audiences over others, discriminates between them based on their ability to pay, and prioritises consumer identities over civic identities. All of this advertising also "drowns out other possibilities" in the process. A greater degree of free expression necessitates new methods of content financing. Lewis worries, though, that such chances are "shrinking before our very eyes" at the moment.

The subsequent chapters maintain the emphasis on advertising by discussing a variety of features of altered advertising strategies and their consequences on content, legislative initiatives to distinguish editorial from commercial material, and audience weariness from commercials. Tamara Piety focuses on one of the novel ad types that has arisen as a method of financing online content. To win over consumers' cynicism, native advertising disguises advertisements as journalistic material. She contends that native advertising is dishonest and threatens to spread advertising's poor credibility with consumers to all material, negating the initial motivation of advertisers to imitate journalistic content. As consumers become aware that journalistic information is heavily infused with sponsored promotion, the merging of editorial and commercial content threatens to increase audiences' mistrust of all media. Lawmakers are forced to make tough decisions as a result, particularly in light of the US First Amendment, yet doing nothing also puts media credibility at risk.

Eva-Maria Svensson investigates if (and if so, how) editorial and commercial content distinctions are retained in Swedish self-regulation. Her research demonstrates the significance of maintaining a clear distinction between editorial and commercial material, which is expressed in both legislation and self-regulation. Nevertheless, there seems to be more blending of the lines in actual practise. This might have an impact on how commercial material is seen in terms of free speech; specifically, it could determine whether commercial content receives the same level of protection as editorial content or other non-commercial content. Commercial content that is referred to as "commercial speech" in the US already has constitutional protection that is similar to that of political speech. Despite the fact that conditions differ between nations, the same kind of strategy has gained traction in Europe. Insofar as it is a requirement for democracy, Svensson contends that a stronger defence of advertising as free speech may have repercussions for that right. She makes arguments for why there should be continued resistance in Sweden to promises of more protection for

commercial communications. Instead, it is important to keep highlighting the divide that all of the actors described above recognise.

Both native advertising's detractors and proponents tend to believe that it will play a significant part in future advertising, as Fredrik Stiernstedt points out. It will, at best, increase the efficacy of advertising while simultaneously funding media content, including journalism. He explores how the switch to native advertising won't always be "smooth and unproblematic" using the Swedish example once more. His study indicates that they demand for, among other things, intensified efforts to address the economic, ideological, and regulatory hurdles regulatory initiatives. As an extension of Svensson's concept to underline the distinction between advertising and content, Stiernstedt proposes focused protection of specific content kinds (such as news) and even a structurally split media system to safeguard non-commercial sectors. He says that the "wall" "might instead run through the media system at large" if commercial media are unable to maintain a "wall" within their organisations. When it comes to improper promotion and product placement in broadcasting, Maria Edström examines how changes in EU regulation of commercial messages are related to audience fatigue of commercials. She also takes into account how Swedish regulations for both commercial and public service television relate to these European requirements. The history demonstrates growing challenges in separating editorial from commercial material as well as issues with the European legislation' concentration on broadcasters while other content producers may be utilising the forbidden advertising methods and be beyond the scope of the Directive.

The subject matter of Bengt Johansson and Stina Bengtsson is the monetization of digital life. Bloggers are occasionally paid to promote various products; advertising is integrated into social media and ties to virtually unimaginable data tracking and modelling; and so forth. "Everyday space is becoming more commercial," they note. Citizens are becoming customers, and online free speech "is not free because it will be tracked, saved, and used for commercial purposes," according to the report. How are these modifications viewed? Johansson and Bengtsson report that, based on a nationwide representative study, individuals are generally quite dubious about various types of commodification associated with Internet use, especially when they are exposed to advertisements based on the websites they have visited. However, respondents' perspectives on market impacts on online social connections are structured by their age. The authors advocate for expanding the definition of MIL, or media information literacy, in order for individuals to be able to voice concerns about the commercialization of their social life. This is in addition to solutions that call for media providers to promote transparency (in terms of both monitoring and advertising).

The authors, Crystal Abidin and Mart Ots, shift the focus to a case study of 'Influencers' who act as middlemen between commercial companies and bloggers in order to facilitate native advertising that should be undetectable to blog readers. These 'Influencers' have high profiles with relevant audiences and thus appeal to advertisers. However, it also suggests how Influencers, followers, and even clients can become "sensitive to what they experience as deceptive and unethical behaviours," which could lead to greater pressures for ethical behavior by Influencers. A case study of influential bloggers who were exposed in relation to a campaign aimed to discredit other Singaporean telecommunications companies shows the lack of enforced norms (in both law and industry) regarding such practices [11], [12].

## **Media Content Restrictions and Control**

The balance between regulation and self-regulation for the press, legal restrictions on sexist advertising, the preferable legal approach to hate speech, and legal restrictions on political advertising are just a few of the restrictions and control of media content that are examined in Part III. The chapters in this book attempt to provide perspectives that are less frequently encountered in English language academia while always keeping an eye on the democratic features of free speech. Each of these issues is obviously enormous and multifaceted. Part III of the book is opened with an analysis of the long-term conflicts between governmental threats to regulate and press self-regulation, which are frequently discussed in terms of credibility, legitimacy, professionalisation, and press freedom. A review of historical trends since the middle of the 20th century in the US, the UK, and Scandinavian cases reveals how "the media lets out pressure" by altering self-regulation "when legislative steam is building." But as media monopolies change with Internet communications and media control becomes less direct, state-media relations are getting more complicated. This serves as the foundation for von Krogh's assessment of diverse regulatory threats in the contexts of politics, markets, professions, and the public, as well as the potential for the continuous relevance of the "communicating vessels" between legal threats and self-regulatory remedies.

A Spanish law's first ten years are examined by Marta Martn-Llaguno, whose work has received little attention in literature written in English. The Spanish Organic Act on Integrated Protection Measures Against Gender abuse, which was passed in 2004, aims to reduce gender stereotypes by forbidding the use of reified women's bodies and stereotypical behavior in advertising and mandating the creation of a national awareness campaign against intimate partner abuse. Gender equality has received substantial consideration, and this place has specific legal restrictions on business speech. Martn-Llaguno looks at issues with the law's application as well as the significant discrepancy between the public's and regulatory authorities' perceptions of what constitutes illegal advertising. David Brax expands the discussion to include hate speech and makes a case for its legal oversight. He starts out with the more well-known notion that hate speech is damaging because it discredits the views of other people and the organisations it targets.

## **CONCLUSION**

The distribution of the "costs and benefits" of hate speech is next considered by Brax, who suggests that "people that are already among the worst off in our society" are primarily affected by its negative effects. He claims that a "prioritarian" viewpoint offers "the most plausible argument in favour of hate speech regulations," meaning that the effects on those who are most negatively impacted matter more morally than consequences on others. Magnus Hoem Iversen explores Norway's prohibition on political advertising and the manner in which it has occasionally been disregarded during the past 20 years in his analysis of the fourth restriction on speech covered in Part III. He contends that breaching the restriction has served three important purposes. For starters, it may help parties and organisations raise awareness of political concerns. Additionally, it offers third, it gives broadcasters a platform to voice their opposition to the restriction and to position themselves as "champions of free speech". Hoem Iversen discovers that the violations have influenced discussions, prompted legal reform and litigation, and served as a way for television channels to gain public attention—something that they may find harder to do as a reformed media environment

circumvents such bans through a variety of Internet-enabled opportunities for political advertising.

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## CHAPTER 2

### FREEDOM OF EXPRESSION IN TRANSITION

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#### **ABSTRACT:**

The processes of globalisation include both the transcendence of limits and the defence of boundaries. We must comprehend this environment in light of the fact that geopolitics, globalisation, and new communication technologies all have a significant forming impact on how people express themselves in contemporary society. The practise of democracy is freedom of expression. Although it is a right, it also entails accountability and consideration for the rights of others. The cultural and social context of an act of expression determines the boundaries of that expression, which are not constant. However, there must be no question as to who is in charge. Freedom of expression has legal, ethical, and moral implications, but at its core, it comes down to the fundamental notion that all people are created equally. Media are essential to expressing oneself freely. Whether publication occurs offline or online, the existence of media plurality and independence is crucial to democratic government. Based on the relationship between media, democracy, and civic participation, media have long been seen as essential, shared sources of information, as well as 'watchdogs' and forums for public discourse (a public sphere). Digitization and globalisation have altered our communication systems in terms of time, place, and social behaviour. This is due to changes in functions as well as management practises and markets. They have also spawned increased commercialization and far-reaching media convergence. These adjustments have changed how the public feels domain, and the parameters of free speech have changed.

#### **KEYWORDS:**

Expression, Freedom, Media, Society, Speech.

#### **INTRODUCTION**

Finally, the freedom to freely contribute to the welfare of society is a crucial right in a free society. But for that to happen, it must be feasible for everyone to be aware of the situation of society and for everyone to express their opinions freely about it. Liberty is not worthy of its name if this is missing. The Forsskl 1759/2009. The author of these lines is Peter Forsskl, who was born in Helsinki, Finland, in 1732. At the time of his birth, Finland was a part of the Kingdom of Sweden. He was a student of Carl Linnaeus and also a philosopher, theologian, botanist, and orientalist. These remarks were written by Forsskl in 1759 in the concluding paragraph of chapter 21 of his book *Thoughts on Civil Liberty*. Forsskl unexpectedly received approval to publish a censored edition; nevertheless, all copies of this book were immediately banned and seized. He was intimidated and harassed, which led to his forced exodus [1], [2].

Forsskl passed away from malaria on the Arabian Peninsula at the age of 31. Because of his efforts, Sweden did not pass a constitutional legislation on press freedom until 1766, making it the first nation in the world to do so. At the time, Forsskl's faith in the freedom of the

written or spoken word must have sounded completely irrational. But in the long run, Forsskl was correct. Freedom of expression and social development are linked and have an impact on one another. His remarks still make sense since historical viewpoints may be beneficial in many ways. Perhaps we require more of the guts, 'bildung,' and spirit that Peter Forsskl possessed 250 years ago. Because it is possibly more important than ever that we comprehend the issues and difficulties confronting modern communities. The difficulty is in providing answers as well as just describing the issues. Researchers in the media are no different. Our grasp of what the present trends in our more "wired" society mean has to be improved, but perhaps most urgently, we need to know what they mean for democracy and human rights.

### **Freedom of speech in a different setting**

While society changes, some democratic ideals never change. As stated in Article 19 of the UN Universal Declaration of Human Rights, they include the freedom to express oneself and interact with others via thought, speech, listening, and writing. But there are many challenges to face. Due to extreme poverty, social injustice, inadequate education, gender, racial, and religious discrimination, unemployment, and lack of access to healthcare, not all citizens are in a position or in a condition to exercise their rights. They also lack access to information and knowledge. People are particularly susceptible in areas affected by conflict and turmoil. Today, millions of individuals have been evicted from their houses and are completely without any civic rights. Globalisation and digitisation link economies and people over vast distances. Although the planet has expanded, certain regions appear to be moving farther away. When shared cultural platforms can no longer be upheld, stockades are built around regional cultures, religious beliefs, and communities because some people feel the need to defend their identities.

The modern communication culture has a lot of possibilities. We now have access to information and are aware of occurrences that were formerly out of our reach. And we have never had it so easy to engage and converse. Due in large part to social media, there have never been more opportunities for individuals to express themselves freely. However, human history teaches us that although new technology. They virtually usually have drawbacks as well as advantages. Threats to the right to free speech and the freedom of the press emerge daily. These include new kinds of official repression, self-censorship, monitoring, surveillance, and control, hate speech, gatekeeping, propaganda, and acts of terrorism. Even murder, committed against sources who work for journalists [3], [4].

Many powerful media and communications organisations are focused entirely on the market or the political power, rather than upholding democratic norms or serving the public. One of the key issues for speakers at this conference is the fact that it is not always obvious who the sender, the originator, is—whether it is the government or commercial interests. From a personal standpoint as well as an economic and political one, new forms of transnational media organisations, like Google and Facebook, are incredibly powerful players. Today's society has become significantly dependent on these corporations in many different ways. They enable the use of a wide range of services, which is extremely beneficial and enjoyable, as well as the sharing of enormous amounts of information and expertise. However, they are also gathering a tonne of user data, which can be used for everything from advertising and consumer control to government spying or illegal activity. Users are subject to control when



algorithms, terms, and policies are changed secretly. It has to do with obtaining information monopolies.

## DISCUSSION

The same openness that gives the Internet its enormous value also makes it vulnerable. Providing such a means of communication also opens up new avenues for the expression of hate, harassment, and threats. Using the Web effectively requires consideration of privacy and security. A fine balance must be struck in order to provide security without compromising either privacy or freedom of speech. When services are run by foreign-based businesses with a worldwide reach, the digital public sphere is outside of national jurisdiction, which has serious repercussions in many nations. And the domestic media are exposed to a brand-new environment of rivalry.

Clearly, there is a need for international accords that are developed internationally and put into effect locally to address public concerns. Unfortunately, these statements are frequently disregarded; nonetheless, it is now crucial to actively mobilise these accords. But there is an urgent need for a new approach to global governance that is based on a solid multi-stakeholder basis if we are to achieve significant progress. At the local, national, regional, and worldwide levels, policy, business, civil society, academia, charity, etc. face several issues. A democratic will is fundamentally at stake in this matter of determination disparities in participation and knowledge that are widening. However, there are further concerns. Each of us will be able to reject other people's viewpoints and information flows until we are each able to develop our own frame of reference based on our own interests and preferences. Finding reliable information has never been simpler for anyone with an interest in politics and public affairs. However, the inverse is also accurate. It has never been simpler for those who have no interest in politics or current affairs to avoid learning about them. Furthermore, it has never been simpler to be misled or deceived [5], [6].

Greater disparities in how various groups utilise the media, especially news media, result from an increase in media variety. Due to these discrepancies, there is a chance that knowledge and engagement inequalities would develop, which might damage social cohesion and exacerbate gender and social class inequality. A number of assumptions regarding the function of media and journalism in society and the circumstances in which they operate need to be reexamined as media consumption becomes increasingly fragmented, diverse, and customised. Democracy cannot function without informed, sceptical individuals, and informed citizens cannot exist without trustworthy media and journalism that fosters a critical eye on those in positions of authority. The media must be held responsible. A healthy civil society and effective political solutions are impossible without such awareness and understanding. This explanation has long been taken for granted. Does it still apply, though?

What effects do the present demands on news media, particularly newspapers, have? of ongoing reporting staff reductions, resulting in fewer journalists providing more content? when local offices are closed, international reporters are fired, and investigative reporting funds are decreased? When Facebook adopts a new business model, its influence over the news sector will grow. The production and delivery of news has always been controlled by traditional newspaper companies, but they are increasingly turning into content producers for a massive viral distribution platform that lacks both journalistic ethics and expertise. The variety of news outlets is expanding. Through social media and other online platforms, the

public sphere contains intricate interactions between those in positions of authority, lobbyists, public relations consultants, information officers, journalists, and ordinary people - which can lead to market-driven journalism or purposefully deceptive marketing strategies, both of which tend to erode ethical standards and self-regulation. Today, for instance, there is a lot of discussion about the effects of "branding" and "native advertising".

There is an increase in both amateurishly created content and information from sources outside of what we typically consider to be media. And, It's become harder to tell the difference between propaganda, news, information, and knowledge as well as to determine the source. The number of experts educated to investigate public affairs and determine their veracity before reporting on them is dwindling in the meantime. Most people think of freedom of expression as a partnership between the individual and the government. The connection to the market is frequently ignored. That is an issue right now. Recent study by Eva-Maria Svensson and Maria Edström in Sweden shows the usefulness of distinguishing between freedom of speech that is driven by democracy and freedom of expression that is driven by the market; this difference is important for future research [7], [8].

This raises concerns about the type of society we want to live in on a bigger scale. The answers to these questions will determine the level of support provided to the media and, in turn, the importance we place on journalism and the involvement of common people, or "the public at large," in public affairs. Institutional support underpins the freedom of expression ideals. The State's function is essential. According to a number of experts, public support for the media is necessary for it to continue operating at the level necessary for a democracy if journalism is to survive. The highest values for a review of several indices that measure the vitality of democracy, prosperity, freedom, the absence of corruption, and similar indicators have been found in countries with the most widespread public support for various media, such as print media, radio, and television. The Nordic nations serve as excellent models. The right to free speech and democracy can be protected through media subsidies as well as regulation. And it is past time for the authorities to exhibit the same creativity as the digital sector. In a democracy, media policy must be prioritized as both a factual truth and an ideological instrument.

### **Information and media literacy:**

When we talk about the future of democracy, human rights, and freedom of speech, there are many implications to consider, not the least of which is the shifting dynamic between political authority and the market. The foundations on which the freedom and independence of the media stand are impacted by tendencies moving away from institutions and towards people. Any democracy must have a sense of cohesion, and if it no longer rests with its public institutions, at least not to the same extent as it once did, it must rest more with the people if new institutions are to be created.

Given these facts, it is obvious that for democracy and freedom of expression to be maintained, today's complex society needs individuals who are critical and capable. One essential requirement for democracy and freedom is to provide excellent schools for both girls and boys. In this context, it is crucial to understand that media- and information-literate citizens are necessary for a democratic society. Understanding the meaning of human rights and freedom of expression, as well as having knowledge of the media and network society, including how they operate and how to use them, has become extremely important. A

contribution to democratic learning is made by such knowledge and understanding. Investments in media and information literacy will aid in the development of informed and capable people, which will contribute to the development of a positive and healthy media environment. Or, as a recent study's author stated, "The promotion of media literacy is one way of creating public value, as it goes beyond the interests of individual consumers and benefits society as a whole". The goal of media and information literacy is to safeguard, advance, and foster freedom of speech in the digital age.

### **Reevaluating Media and Freedom of Expression Study**

If we want to comprehend how things operate, it is also evident that new ideas and additional information are needed. It is essential that the research community engage at the national, regional, and international levels in order to encourage researchers at all of these levels to work together to test our capacity to propose and imagine models that contribute to more holistic paradigms of civilizations. This is because contemporary society poses challenges to freedom of expression, media, and digital culture. We must share our knowledge and contexts more, as well as learn more from one another.

The effects of globalisation push us to not only pay more attention to transnational phenomena in general but also to identify and examine disparities. For instance, it is essential to understand how human rights and freedom of speech concepts are applied in very various cultures with very varied state structures and notions of the role of the person in society (Price 2015). In addition to developing understandings of human rights and freedom of speech from a multipolar world perspective, we must also advocate for a deeper focus on regional inequities and social transformation. This is crucial for creating new strategies that can assist implement and advance the international laws that guarantee fundamental human and freedom of expression and other civic rights in many new circumstances. More than ever, it is crucial to have reputable national, regional, and worldwide research platforms with an understanding of the field's past. As researchers, we require spaces where we may reflect on the applicability of the questions we pose, where we can choose theoretical perspectives, settings, and methodologies with more wisdom, and where we can assess the reliability of our results and the conclusions, we make from them.

The presence of conflicting viewpoints and a multiplicity of voices in public discourse are invoked by traditional authors on free speech. According to Milton and Mill, for instance, public discourse must be "a struggle between combatants fighting under hostile banners" and "without contraries, there is no knowledge". According to Mill's theory, in order to challenge official doctrine and the "tyrannical majority" of a community, disagreement may need to be maintained even in situations where it would not otherwise exist. The current condition of circumstances, which argues that diversity should be a part of free speech, suggests that free speech has advantages. Free speech requires the existence of numerous, different viewpoints in addition to the lack of previous censorship and the careful examination of legislative restrictions on published speech. This strategy serves the interests of more than simply speakers, who are frequently the subject of debate and legal action about free speech. The strategy also takes into account audiences' important interests in hearing a variety of public speaking [9], [10].

These concerns in varied speech take into account the ways in which discourse may be understood to form "discursive publics," or groups of people who are involved in the

exchange of texts, including media texts. This is more of "a condition-universal of public speech" than "a justification for free speech". Speech therefore deals with the construction of publics that seem self-organized and inclusive but really choose members "by criteria such as shared social space... habitus, topical concerns, intergeneric references" (Warner 2002:106). As a consequence, "whenever any public is taken to be the public, those limitations invisibly order the political world" Every act of public speaking results in "specific political orderings".

### **Structure-related effects of free speech**

The strategy described above modifies what it means for speech to be free. The 'who, what, why, and how' of constructive free speech are examined in this article. It is obvious that the questions are large and rather cumbersome. The function of diverse public institutions in nominally democratic situations in regard to mediated speech is the one feature of them that I concentrate on. That doesn't mean that these institutional functions are the only significant component of the concerns, but they are significant and raise certain issues pertaining to free expression more broadly. (Adding inquiries about "where and when" could also imply advancements for comparative media systems research, which I will not address here.) Free speech problems are raised in many areas of law and politics that impact public communication, sometimes in unacknowledged ways. Government decisions concerning media ownership, public service media, or Internet access and architecture, for instance, are not decisions of 'unrestricted' policy; instead, they raise issues of free speech that should shape and inform what is done. The analysis presented here provides a normative rebuttal to public perceptions of commodified digital lives, which are documented by Bengt Johansson and Stina Bengtsson in this volume. It also broadly parallels Justin Lewis's investigation of the speech restrictions placed by advertising. Here, I look at some structural and legal ramifications for free speech that result from this kind of thinking.

While I discuss the "positive aspects" of free speech or "positive free speech"—other terms like "empowering free speech" or "active free speech" might also be used—a major portion of my concern is with the structural implications of the idea of free speech. That emphasis might help to avoid certain negative implications associated with the word "positive," such as the idea that the positive is inherently better than the negative or that when the state promotes free expression, there are less risks than when the state actively stifles speech. The use of the words "positive" and "negative" does not imply that the state is always present when it comes to media relations or free expression. A market-based strategy for regulating speech "is not an absence of constraints, but a particular set of government sanctioned constraints" (Hutchinson 1989:21). In this volume, Victor Pickard writes that "the real question is how the government should be involved." Since total state non-interference is not achievable, my focus is in what can be called structural features of free speech (e.g. O'Neill 1990). In order to do this, the term "positive" is succinct, uncomplicated, and it reflects a feature of free speech that is likely not adequately covered in the literature. It aims to move freedom beyond a simply formal level.

### **Free speech's negative characteristics**

Now let's turn to the questions that guide this chapter: Who participates in free speech activities, how do they do it, and why? Let me first think about those issues in terms of the negative or liberty elements of free speech before I analyse how they relate to free speech's

positive features. (Though we concentrate on public institutional players here, a larger variety of actors and variables also effect speech.) Free expression has the status of a constitutionally protected right in the majority of ostensibly democratic constitutions. Under such a constitution, "the courts" are often seen to be the governmental institutions "who" act to safeguard offensive free speech, albeit there are other options. There are also considerable discussions concerning the potential protection of these rights via parliamentary procedures. It's possible to view the legislative branch as an addition to the judicial system or even as the preferable form of protection above the courts. However, a brief description would indicate that claims are made that the right to free expression has been violated in legal proceedings, whether as a result of a legislation, a regulatory rule or judgement, an older judge-made law (in common law systems), an executive action, etc [11], [12].

### CONCLUSION

The concept of free speech is discussed in far broader terms than that, such as in opposition to censorship or private content management, and these broader arguments can occasionally succeed in court. While free speech is a value, idea, or right inscribed in a constitutional charter, courts often interpret it as a negative liberty against government action rather than against private conduct. This is what courts do in certain legal matters. As US First Amendment law is frequently defined with its terminology of "strict scrutiny," "clear and present danger," and other terms, courts may use a "categorical" approach to identifying the speech in question and the test to be applied to its suppression. Or, judges may engage in a more open "balancing" exercise that considers other fundamental rights (privacy, dignity, etc.) in addition to free expression. Free speech is a principle that limits what legislative majorities can accomplish and what presidents can do in both situations. As a result, something that the majority considers to be socially good may be declared illegal because it does not adhere to the legal requirements necessary to limit speech.

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## CHAPTER 3

### BEYOND POSITIVE AND NEGATIVE CONCEPTIONS OF FREE SPEECH

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#### ABSTRACT:

Few people in principle oppose freedom of speech and related ideas like media freedom. But there is constant political and intellectual debate over their definitions, interpretations, and boundaries. This chapter aims to incorporate new viewpoints from modern political philosophy and democratic theory into conceptual disputes on free speech. The dichotomy of positive and negative freedom has traditionally been used to examine various definitions of freedom. Beyond these frameworks, this chapter examines a third perspective that is quickly emerging, one in which communicative freedom is no longer seen as a state that can be clearly attained or linked to definitive, all-encompassing conditions of realization. Instead, it is believed that freedom is only ever temporary and incomplete, necessitating constant struggle to a variety of limitations and restrictions.

#### KEYWORDS:

Capability Approach, Negative Freedom, Non-Ideal Theory, Positive Freedom, Radical Pluralism.

#### INTRODUCTION

The established dichotomy of positive and negative paradigms of freedom is frequently used to examine various views of freedom (see, for instance, Berlin 1969). The dichotomy has received a lot of criticism and controversy in political philosophy generally as well as in more applicable contexts like media and communication policy studies, despite the fact that it is still helpful. This chapter presents two alternative theoretical perspectives that may be used to examine the potential and limitations for free expression in the modern media environment in addition to these usual frameworks. I go through Amartya Sen's "capabilities approach" and how it might be beneficial in discussions of communicative freedom as one possible theoretical angle. Second, I analyse the consequences of modern radical-pluralist, or "agonistic," views of democracy and their notions of freedom within a different theoretical framework [1], [2].

The ideas covered in this chapter are representative of contrasting theoretical traditions, hence they cannot be said to be a "third paradigm of freedom" in any substantive sense. However, they all share the belief that freedom is a disputed ideal that can never be fully reached and is instead constantly viewed as a partial success. In other words, the theoretical viewpoints covered in this chapter suggest a "anti-essentialist" or "non-ideal" approach to free expression. This indicates that freedom is neither considered as an either/or situation, nor is it intended to provide any fixed or universal requirements for realising it. Although it is acknowledged that free speech lacks any "natural" substance, this does not preclude it from being a meaningful aspirational ideal in intellectual and policy arguments. Instead, it might

be argued that the concept's contentious character simply makes it more pertinent to talk about the value of various theoretical stances for spotting limitations on and opportunities for communicative freedom [3], [4].

In addition to absolute and relative freedom few people in principle disagree with the ideals of free speech and concepts like media and internet freedom. However, there is constant philosophical and political debate over their definitions, interpretations, and boundaries. Consequently, normative and political arguments in media policy and scholarly research frequently take place between various notions of freedom rather than between proponents and opponents of free speech. One of the most well-established frames for the discussion of various definitions of freedom in political philosophy and more practical political discourse is the dichotomy between "positive" and "negative" notions of freedom. Positive freedom denotes 'freedom to', or the real possibilities or capabilities that people have to make use of their freedoms, whereas negative freedom often refers to the lack of external restraints, or 'freedom from' something [5], [6].

Similar to this, the distinction is frequently used to describe ideological distinctions, such as those between various national media policy traditions. Negative freedom is sometimes referred to as the lack of governmental censorship or other types of official intrusion (see, for example, Curran 2002, Jones 2001, Kenyon 2014; Lichtenberg 1990). Positive freedom, on the other hand, is frequently mentioned when discussing citizens' rights to free speech or when highlighting the structural prerequisites necessary for individuals to have their opinions heard in public discourse. In this book, Andrew Kenyon makes the case that a healthy definition of free speech includes not just the lack of previous censorship but also the availability of numerous, different perspectives as a prerequisite for the successful use of that right. As a result, according to positive conceptions of freedom (Jones 2001; see also Kenyon's chapter), governments have a duty to actively promote citizens' rights to free expression through institutional settings like public service media [7], [8].

The distinction between 'market-driven' and 'democracy-driven' freedom of expression can also be linked to the negative and positive definitions of freedom. The negative view is sometimes believed to coincide with the American free speech tradition and the US market-oriented media system, even if philosophical ideas and real-world institutions do not correspond one to one. The Nordic media model has lately been dubbed the "Media Welfare State," which is thought to connect with the (Northern) European, public interest-focused media policy traditions (Syvertsen et al. 2014).

For many years now, the difference between negative and positive notions of freedom has been hotly contested, problematized, and reinterpreted. The difference between negative and positive freedom is sometimes viewed in philosophical discussions as being oversimplified or ambiguous. But the divide still exists today. Examples of both positive and negative ideas include discussions on Internet freedom and people's digital rights. Despite its flaws, the dichotomy appears to provide a useful method for illuminating aspects of free speech, identifying the underlying assumptions of various media policy positions, and categorising media systems and their underlying ideological traditions (see, for example, Pickard's discussion of the corporate libertarian tradition of American media policy or Axberger's chapter in this book on the different treatment of newspapers and broadcasting in Sweden's media system). The boundaries and blind spots of both negative and positive ideas exist. A negative notion of freedom is generally critiqued in the context of media and



communication studies for neglecting restrictions other than governmental interference, such as market failure or self-censorship. The purposes of free speech are frequently implausibly assumed to exist even when the state does not openly censor speech, according to Kenyon's (2014) argument. As a result, the notions of "free information flow" and "marketplace of ideas" neglect how journalism is connected to larger social structures of power as well as how media markets and journalistic practises themselves inherently elevate some voices while excluding others.

## DISCUSSION

The risk comes from using positive freedom as a tool of political dictatorship or forcing irrational people to be free, as Isaiah Berlin (1969) stated. Even though the pursuit of more democratic media systems is strongly linked to discussions of the positive approach to free speech today, it still raises the question of whose job it is to determine what constitutes true freedom (see Axberger's chapter for a discussion of these concerns in the context of public service broadcasting). Or how is it to be decided what this actually means in practise if it is claimed that positive freedom involves institutional preconditions, such as a diversified media architecture or equitable access? In addition to theoretical criticism, the media landscape has evolved in ways that call into question the viability of traditional normative frameworks. The accepted understanding of the negative/positive dichotomy as a basis for conceptualising various aspects of free speech has perhaps become more challenging in light of the digital media environment and the variety of opportunities and restrictions to free expression. On the other hand, ideas of positive freedom have historically come under fire for being essentialist or paternalistic in their attempts to define the rights and demands of individuals from above.

### **Freedom in Communication**

The availability of information and the confluence of digital technologies have greatly increased the options for individuals to share their opinions. Constrictions and power dynamics that shape these opportunities have also grown increasingly complex with a lot of other strong actors besides states who engage in censorship and monitoring. Media is also increasingly spanning national boundaries and challenging notions of national media systems or free speech laws. Additionally, this makes it more challenging for governments to execute media and communications laws that are founded on common national values and intended to ensure a specific institutionalized interpretation of citizens' positive communicative rights. The inherited normative assumptions that media policy are founded on are undercut by all of these shifts. The information society has inherited "a baggage of discordant normative traditions" as a result of the media convergence, according to Alistair Duff (2012:6), which has caused diverse normative traditions linked to individual media (or national media systems) to conflict. Similar to this, van Cuilenburg and McQuail (2003:198) have urged the creation of "a new communication policy paradigm" that would fully take into account "new political ideas and social values."

Therefore, it may be claimed that both intellectual currents in political philosophy and changes in the communication environment itself have challenged the classic negative/positive freedom divide in free speech thought. Next, I will quickly discuss some theoretical avenues that could be worth exploring more thoroughly in order to construct such new normative theories and paradigms surrounding communicative freedom without making the claim that I am introducing "a new paradigm" in the traditional sense. As a terminological

comment, I sidestep some of the more formal legal and political associations of the term "free speech" by using the concept of "communicative freedom" here as a larger theoretical notion. The word is meant to serve as an open-ended starting point for analyzing the implications of various theoretical approaches to citizens' communication options without connecting it to any particular theoretical school [9], [10].

### **Possibilities and Limitations**

With regard to a "non-ideal" perspective on communication freedom. The opinions mentioned here all agree that it is unproductive in the current media climate to debate freedom as an either/or situation. Both in the negative and positive traditions of conventional political and scholarly debate on free speech and the connection between media and democracy, it is frequently claimed that eliminating political and economic constraints may in some real manner guarantee unfettered communication. As noted by Kenyon (2014), this is especially true for notions of free speech that presume it only exists when the government does not actively impede it. The development of a predetermined set of requirements that would constitute true freedom of expression may also be questioned in positive conceptions of communication rights.

However, there are always a variety of restrictions and limitations that affect public communication, from individual abilities, access, and market logics to cultural norms and other social controls. Even the claim that limitations are essential to public expression is debatable. Free speech declarations have never been made in a broad sense; rather, they are always made in the context of some kind of limitations and exclusions that give the idea its meaning, as Stanley Fish (1994) noted. Freedom, including concepts like free speech, freedom of the press, and media freedom, can be regarded as phrases founded in particular historical practises, institutional arrangements, and privileges that they defend rather than as a transcendental, absolute virtue. According to Wendy Brown (1995:6), "freedom is not an intellectually absolute or physically real thing; rather, it is a relational and contextual practise that takes shape in opposition to whatever is locally and ideologically conceived as unfreedom. This can be regarded as taking a relativist stance that permits anybody to utilise freedom for whatever reason they want. However, a perspective that acknowledges the contextual aspect of freedom may also be considered as a more realistic basis for extending and redefining communicative freedom as a normative virtue, in contrast to the absolute and universalizing rhetoric.

Freedom is no longer viewed as a state of affairs that can be plainly attained or that is tied to any universal, predetermined conditions of realisation in a large portion of modern political philosophy and democratic theory. Instead, freedom is now more than ever recognised as being just temporary and incomplete, subject to a number of limitations. These limitations may be based on state, commercial, or cultural power relations and may be internal to the person or external. Therefore, it is possible to think of communication freedom as a continuum with nonnegotiable ends, but one that still offers an ideal that is worth preserving and advancing. I'll briefly go through two perspectives that both accept the fact that freedom isn't perfect in the paragraphs that follow.

One somewhat underutilized theoretical tool for thinking about communicative freedom is the capacity approach of economist-philosopher Amartya Sen, which has been further explored, among others, by Martha Nussbaum. Because it is concerned with people's actual

potential and their structural preconditions rather than just the absence of limitations, the capability approach to freedom is sometimes connected with a positive or substantial notion of freedom. Sen (2009) contends that in discussions of human freedom, the emphasis should shift from the transcendental, formal, and abstract ideal of genuine freedom to the expansion of "real freedoms that people enjoy."

However, the capacity approach acknowledges the numerous dimensions of freedom and the impossibility of its complete embodiment rather than endorsing any preset definition of "genuine freedom". Sen places more focus on the little, practical victories that increase people's opportunity to use their freedom. Sen (2009:228-229) claims that freedom is beneficial for at least two reasons: it provides people more opportunities to pursue their goals and the things they value, as well as for the act of choosing itself. Sen contends that there are solid justifications for prioritising personal freedom over debatable notions of the general interest or paternalistically determining what is best for others. Therefore, the best way to understand capabilities is as genuine, concrete possibilities that individuals have to carry out the activities they have good reason to value (Sen 2009:253). Sen is concerned with how freedoms are utilised and people's actual capacity to attain the ultimate result rather than the tools to accomplish multiple broadly stated goals. Thus, the accusation of paternalism and elitism is disproved by emphasising the importance of capacities rather than specific institutional arrangements, results, or methods. People place distinct, noncomparable values on various things.

What effects might the capabilities approach have on communications and the media then? As stated by Sen himself, "one pre-determined canonical list capabilities, chosen by theorists without any general social discussion or public reasoning" (Sen 2005:158) are strongly opposed. In light of this, it is left up to researchers to decide what the essential elements of fundamental capacities are in the contexts of media and communications, taking into account public thinking. Martha Nussbaum has developed a list of key, fundamental skills that all democracies have a duty to ensure to people, in contrast to Sen's more open-ended approach. The ability "to use the senses, to imagine, think, and reason - and to do these things in a 'truly human' way informed and cultivated by an adequate education" is one of these that Nussbaum recognises, along with the ability "to use imagination and thought in connection with experiencing and producing works and events of one's own choice" and "being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and ideological In addition, Nussbaum highlights the importance of public policy in fostering the material, institutional, and educational conditions necessary for the development of fundamental skills. This is because the development of other fundamental talents may be considered as being significantly facilitated by having access to knowledge and communicative tools. In any event, additional effort would be required to build the framework for the sake of theorising or operationalizing communicative freedom because theorists of the capabilities approach have thus far had very little to say about communication or media in more concrete terms.

The capabilities approach has so far received some discussion, for instance in relation to research on communication and development and the digital divide, but it hasn't been heavily utilised in media and communication research or policy in general. As a heuristic approach to communicative freedom, the capabilities approach may perhaps give one useful framework for comparisons, even though the question of what fundamental human "communicative

capabilities" might imply in various settings remains unresolved opportunities, or for researching the communication gaps between persons or groups in society in terms of access or voice, to mention a few examples.

### **Democratic radicalism and agonistic freedom**

Modern radical or "agonistic" views of democracy, supported by thinkers like Chantal Mouffe, offer another, different theoretical horizon that underlines the disputed and incomplete character of freedom. The main tenet of the agonistic democracy, according to Mouffe is that "democratic theorists and politicians should be to envisage the creation of a vibrant 'agonistic' public sphere of contestation where different hegemonic political projects can be confronted, rather than trying to design the institutions which, through supposedly 'impartial' procedures, would reconcile all conflicting interests and values." This article's underlying thesis is that idealised views of a rational and deliberative public sphere, as well as the liberal model of the marketplace of ideas, fail to address issues of power and current forms of exclusion. Radical-pluralists, in contrast, underline the durability and irreversibility of hegemonic power relations. Therefore, from this perspective, the goal of communicative freedom cannot be the eradication of existing power relations but rather the ongoing contestation of those connections. According to Mouffe "no meaningful democratisation can ever take place without an understanding of the nature of the existing hegemonic system and the kinds of power relations that it is created by ascend; start moving.

The traditional, contemporary notions of freedom are criticised by Alexandros Kioupkiolis (2009) for essentialism, which tries to relate freedom to immutable universal principles and predetermined conditions of realisation, as well as for neglecting to confront the restricted character of human activity. A "agonistic" understanding of freedom, on the other hand, highlights that freedom is always an imperfect achievement that necessitates ongoing opposition to various constraints and power structures. This doesn't imply a wholly defensive approach. Instead, Kioupkiolis specifically criticises traditional definitions of freedom as being negative since they oppose freedom to restrictions like censorship. He makes the same case as Kenyon (2014) that the presumption that individuals are as free as they can be if only there is no outside interference provides no insight into how we might really go about enhancing freedom. By highlighting creative agency and invention, Kioupkiolis (2009:484) contends that acknowledging the constrained character of freedom helps broaden the imagination by encouraging the creation of new things and modes of existence that go beyond what their social conditions foreshadow. In other words, eschewing the essentialism of contemporary notions allows freedom to expand beyond specified boundaries by releasing it from the need to realise it in a certain way within established social constraints and institutional frameworks. Generally speaking, Mouffe (2005) highlights that while ideas like democracy and freedom are always ambiguous and susceptible to a wide range of readings, it is the responsibility of critical study to present these interpretations and so serve as a foundation for genuine political alternatives.

Regarding the radical-pluralist approach's practical implications, the emphasis on contestation, resistance, and criticism leaves the approach open to the charge that it is solely focused on disruption and unable to articulate any compelling normative positions or specific institutional recommendations. In some respects, it is evident that the radical-pluralist approach is not an effort to defend any specific definition of freedom or its institutional preconditions, but rather a demand to acknowledge the dimensions of power, exclusion, and

control present in all definitions of free speech. In this way, Kenyon's case for the diversity of public speech architecture as a necessary condition of free speech is similar to the radical-pluralist approach [11], [12].

### CONCLUSION

The radical-pluralist viewpoint is not, however, inherently incompatible or uninterested in specific issues of media policy or the political economics of the media. However, media studies have not yet fully examined the consequences of this line of thinking for media policy. Unrestricted communication is not assured by any one institutional ideal or organising principle (such as public service institutions or free market competition), which is one apparent corollary of the mistrust of totalizing claims of true freedom. This thus indicates that many overlapping and mutually checking logics should be present in media systems. This can mean, in addition to supporting traditional public and private media, supporting minority and alternative media connected to social movements and other civil society actors, which create space for critical voices and social perspectives that are marginalised by the dominant structures and modes of public discourse today.

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## CHAPTER 4

### FREEDOM OF EXPRESSION AS A PUBLIC SERVICE

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#### **ABSTRACT:**

The growth of the Internet has divided the media and is beginning to undermine media organizations that have long served the public interest. Constitutional repercussions will occur if the press is no longer able to give reliable information, participate in investigative journalism, and offer appropriate forums for the discussion of ideas, at least not to the level that we have come to expect. Additionally, public service broadcasting has its own issues and difficulties. What should be done in response, if anything? In light of these modifications, this chapter explores the history of press subsidies and public service broadcasting in Sweden and makes a recommendation for a new definition of public service. The chapter makes the case that, rather than considering public institutions, we should begin to conceive of public service as a constitutional role.

#### **KEYWORDS:**

Constitutional Protection, Free Speech, PressFreedom, Press Subsidies, Public Service.

#### **INTRODUCTION**

The foundations for media politics are fundamentally altering as a result of the Internet and the convergence of traditional media such as newspapers, radio, TV, and films. The role of the press as the "Fourth Estate" is eroding. Government-funded public service broadcasting organisations could be assumed to be able to replace the press, but they have their own challenges. The events are examined in this succinct article from the perspective of Swedish constitutional law. The goal is not to provide complicated solutions per se. One thing is certain, though: the Swedish notion of public service has to be updated for the age of digital media. Sweden has a long history of protecting free expression under the constitution. The Parliament passed a "fundamental law" in 1766 that outlawed censorship and established journalistic freedom. Although the statute was repealed after more than six years, its ideas were included into the Freedom of the Press Act (FPA) of 1809, a piece of constitutional legislation. Overall, since that time, press freedom has been well-protected; judicial institutions have refined the concepts that date back to 1766 into an intricate framework of press laws. The idea, which was first clearly intended for print, has acted as a template for defending free speech in general, and since 1992, there has also been a Freedom of Speech Act (FSA) [1], [2].

#### **The no-rule-rule and the Fourth Estate**

The evolution of the newspaper industry may be directly linked to the constitutional amendments that were implemented more than 200 years ago. The press has frequently been referred to as "the Fourth Estate," and it might be argued that this metaphor should be taken literally because it was inspired by Montesquieu's notion of the separation of powers. When referring to the conventional separation of powers, "the Fourth Estate" is used; however, in

Sweden, with its dualistic constitutional background, the press is referred to as "the Third Estate." Press freedom should be viewed as a statutory control authority, entrusted with the duties of observing political concerns and keeping an eye on public officials, according to a Swedish legal professor who previously wrote this. Therefore, it is important to see the press as a "estate" in both a factual and legal sense [3], [4].

According to Montesquieu and other theorists, the "estates" represent the parliament, executive branch, and judicial system. This trend does not apply to the media as an industry. Press freedom is based on the premise that the legislator should leave the area of citizen communication alone, unlike other functions, which are grounded in the legal system and are carefully regulated within it. Thus, the Fourth Estate is a notion or a law rather than the press itself. One may claim that there is just one rule, the "no rule-rule," which states that there should be no rules (or as few rules as possible) and that the government should not become involved. The succinct language of the United States Constitution, which states that "Congress shall make no law... abridging the freedom of speech, or of the press," is a good example of this. The main philosophy behind press freedom in Sweden is that if people are allowed to freely share information and opinions, society as a whole will benefit. The Freedom of the Press Act of 1766 already established broad constitutional rights for individuals to access public records, therefore the same holds true for those rights. The constitutional statutes, which say that the purpose is "to secure the free exchange of opinion and comprehensive information" (säkerställa ett fritt meningsutbyte och en allsidig upplysning), represent the public interest. In other words, because these rights serve a public good, people are shielded from state interference when they use them [5], [6].

### **State assistance**

The 'no rule-rule' was beneficial to Swedish society for a long time since it led to the development of a vibrant press culture and a wealth of newspapers and other printed materials. However, market forces led to a concentration of ownership in the newspaper industry in the middle of the 20th century. Smaller newspapers were thus forced out of existence. It seemed as though market forces were pushing the sector into regional and federal monopolies. After spirited discussion, a press subsidy system was implemented in 1970. A levy on advertisements was used to pay for the subsidies. Since advertising was more-or-less only found in newspapers at the time, and especially in the biggest ones, the wealthier newspapers were where most of the money was made. Therefore, it was a form of Robin Hood tax that took from the wealthy and gave to the less fortunate.

A clear violation of the principle that government should leave "the marketplace of news and ideas" alone is the press subsidy system. One item are general subsidies, such a lower VAT rate for all print media, and other such content-neutral policies. Different are selective subsidies for particular newspapers. With such measures, the government may actively "balance" what lawmakers see as a skewed development of public opinion, much like in the Swedish system. The political response to criticism of this type of governmental meddling has been that, if the market is incapable of producing newspapers that reflect a wider perspective of news and views, giving voice to the full spectrum of opinions and ideas in society, someone must correct this misrepresentation (or "market failure"). This line of reasoning is consistent with the larger debate where conventional press freedom is described as "negative" rather than a matching "positive" freedom.

## **An Official Mission**

Political interest in press politics increased once the subsidy system was implemented. Then came several government commissions. Newspapers were assigned a public mission in this situation. The government declared that the media had three roles to play in society: Disclose, Examine public affairs (important organizations and individuals), and act as a forum for public discourse. What was legally stated no doubt accurately reflected the functions the media in contemporary western societies have de facto accomplished. The meaning of these assignments was expanded in official reports and constituted part of press politics. However, when these purposes are elevated to the status of political goals and incorporated into a state ideology. Additionally, they might have an impact on how the constitution's guarantee of press freedom is interpreted.

## **DISCUSSION**

There is a clear risk that as a result, press freedom will be restricted to communication that is deemed politically relevant or, worse yet, politically correct, and that other components of free speech, such as literature, art, science, and entertainment, etc., would be devalued. Although freedom of expression is essential to democracy, the parliamentary panel that drafted the Swedish Freedom of Expression Act of 1992 emphasised that we do not have it in order to support democratic processes. The committee consequently resisted giving a specific, detailed justification for defending free expression. The conclusion seems to be that free speech is near to becoming a goal in itself, or, in other words, that its worth is more intrinsic than instrumental. Instead, it highlighted the danger that expanded incentives of that sort may be used as justifications to restrict free speech. In fact, the commission notes that interference with free speech rather than its exercise requires justification [7], [8].

## **State Monopoly**

The printing press was the sole mode of mass communication available during the Enlightenment, when the notion of free speech as a basic freedom emerged. A analogous development didn't take place until the twentieth century: broadcasting. However, as we all know, the right to free expression on radio and television has not been completely respected. Instead, the government stepped in. The main cause was a lack of available transmission frequencies. If there were to be anything worth listening to over the wireless, state-regulated broadcasting<sup>7</sup> was seen to be required. It was followed by contracts and legislation outlining the structure of the broadcasting firm. Once there, the business was given orders to carry out tasks that would benefit society. Early on, during the period when the corporatist, consensus-based "Swedish Model" was established, this led to programmes featuring politically-neutral music and entertainment, "folkbildning," The way it was all set up was typical of Sweden in those days: the government, political party organisations, and the newspaper business were all welcomed as partners. It took a long time for radio broadcasting to resemble a news medium. It was only ever used as a channel for news broadcasts created by Tidningarnas Telegrambyr, the dominant private Swedish press agency, up to the 1960s. This has obviously changed, and over time, with the approval and assistance of politicians, the goals of the radio and television businesses have evolved into the presently highly developed system of public service broadcasting.

One can see how the establishment of the press subsidy system and a rise in political interest in the media sector correspond with the development of a public service philosophy, leading



to the above-described public purpose. Despite the fact that the press and government agencies have traditionally been treated separately in Sweden. It is simple to draw the conclusion that public service institutions have performed the same functions as the press subsidy system, i.e., to offer the needed diversity of media material that the market has not been deemed capable of producing.

However, there is a crucial distinction between governmental action in the free market for technical reasons (frequency availability necessitates regulation to protect the public welfare) and intervention to support particular media content kinds. However, the fundamental rules governing public service broadcasting remain the same. The shortage justification is now out of date, but the legislation has not been updated to reflect this. What "public service" genuinely entails have been one of the topics politicians in Sweden have chosen to avoid discussing, in contrast to discussions in other nations. In comparison to the subsequent upheavals that the Internet has brought about for the print business, the newspaper crisis of the 1960s was minor. Digitalization could have provided a way to endure. But relatively few newspapers have been successful in making the transition from print to online. The much-discussed hunt for "a new business model" has been ongoing for decades, but with little success. Newspapers, whether printed or not, will no longer hold the same social status they once had as the media environment changes. To put it another way, it appears like we are on the decrease - and tumble? representing the Fourth Estate.

Public service broadcasters must be taken into account when determining if this is an issue from a constitutional perspective. They have developed into a dual media system with the press. They once shown that they could coexist rather well, although subtly. In summary, it may be said that public service journalism served as a check on exaggerations and misuse in the free press while the free press kept a close eye on public service, helping to protect its independence from the government. Now, there is still the other branch of the media system if one branch is failing, as appears to be the situation with the newspaper industry. The press's mandate to inform, look into, and act as forums for public discourse is covered by the values of public service. The public service sector can offer us those services to some extent—possibly adequately.

This is exactly what appears to be taking place. The publicly funded Swedish broadcasters have steadily migrated to the internet during the past few years. Their websites are among the most popular on the internet, where "radio" and "television" share unrestricted space with writing of the classic press type. At least visually, it appears as though they are expanding as newspapers get thinner. In this approach, the media system's deterioration brought on by the effects of the Internet may be made up for. But in the world of digital media, the public service idea has its own issues.

### **Issues with Public Service Broadcasting**

In the previous environment, it was obvious that some sort of institutional organisation would have to be tasked with broadcasting within the constrained range of frequencies. As a result, in Sweden, public service came to be associated with the organisation that managed "the show." This is not at all obvious in the modern world. The public service tasks can be achieved in many other ways than by state-controlled broadcasting corporations with a monopoly to collect licence fees if the goal is to promote material that is not sufficiently offered by the free market. The issue of what the State should fund and why should have the

same answer regardless of the type of media activity we are discussing if public service is defined as a function rather than an institution. Government laws on press subsidies and public service cannot be maintained distinct when press, Internet, and broadcasting have fused into a seam-less merger of what previously were different media. It used to be very normal to argue that public service is what the publicly supported radio firms perform; today, however, it is a circular response.

The publicly supported broadcasters have historically offered a sizable number of well-liked shows that might have been produced on a commercial basis. The historical justification for this in Sweden is that a too "narrow" and non-commercial programming would cause public support for broadcasting to decline. A excellent illustration of the technique may be found in the early 1960s, when Radio Nord, a "pirate radio" station operating from a ship in international waters and mostly playing pop music, was shut down. Prior to then, the station had grown to be so well-liked that the monopoly added a new channel named "the Melody Radio" in an effort to make up for shutting down Radio Nord. The same defence is still used to justify including otherwise well-liked content in the broadcasting responsibilities of public service organisations, such as athletic events, "Expedition Robinson" (which gained notoriety as "Survivor" outside Sweden), etc. The contradiction here is that popular programming of the same sort that the market might otherwise readily offer is a prerequisite for publicly sponsored broadcasting with the responsibility of making up for market failure. Government-funded media that only create material that does not emerge on the private market is not a workable option; this is undoubtedly unavoidable and a political reality. In that regard, it is comparable to publicly subsidised or funded theatre, opera, and film. Therefore, government funded media will always result in 'market disruptions' and other issues that need to be resolved by politicians.

### **Financing**

Starting off, everything was simpler. Governmental intervention was necessary due to frequency scarcity; this was not debatable. The same holds true for licence costs. Purchasing a radio required being a Swedish Radio subscriber because nothing else was broadcast on the air. licence buyer and listener. The same reasoning applied to TV sets prior to the advent of satellite and cable TV. It was fraudulent to own a TV set in your house without paying the required licence fee. We don't pay because we don't watch wasn't an option for anybody, as a recently appointed Minister of Culture in 2006 discovered the hard way when she was forced to quit after saying precisely that since no one believed her [9], [10].

She would have had a lot more chance of being taken seriously today. No longer is it necessary to watch public service company programming to be an educated citizen. Furthermore, even if they may be used to watch "TV," other gadgets like mobile phones, iPads, etc. do not need a licence, according to the Supreme Administrative Court. True, the majority of Swedes continue to pay licence fees, but for how much longer? The elder generations continue to watch and read newspapers the conventional way, while young people do not. It's reasonable to assume that future years will continue the newspaper consumption trend. The broadcasters must prepare for a future when few people will listen to or watch regular planned programming, just as the newspaper business must get ready for a world with fewer or no paper products. In any case, persuading people to pay what the governmentally run businesses are demanding will become more and more difficult.

Despite this, the spokespeople for those businesses seem upbeat; they believe they have a lot of support from viewers and listeners, and they appear to be certain that people will continue to be prepared to pay for what they provide. Although I'd want to, I don't think they're correct. Regardless of how it may be set up, I worry that the long-term funding of public service may already be a lost cause. The public service firms' actions and reactions are reminiscent to the newspaper industry's response to the World Wide Web, which was that establishing a new payment mechanism was all that was required to continue doing business. They continue to search.

History also produced regulation, government, and (lack of) independence. No matter how firmly ingrained journalistic freedom is in Sweden, "freedom of broadcasting" has never been an option. Distinctive was broadcasting. At least in the early years, government backing and control were welcomed and were not perceived as censorship or restrictions on free expression. Laws requiring objectivity and impartiality were considered normal even if they were unimaginable for publications. In the similar vein, when the constitutional guarantee of freedom of speech was enlarged in 1992, protecting that right for broadcasting was not a priority. The issue was the exact opposite: how could free expression in the media be safeguarded by the constitution without depriving publicly funded service providers of their protected and monopoly-like status? As is common in Sweden, a reasonable compromise served as the answer. The majority of the fundamental values protected by the FPA and the FSA apply to broadcasting, with the exception of the freedom to broadcast, to put it simply.

Government. A lot of rules and requirements are attached to getting a permit. These rules and restrictions must be viewed as exceptions to the free speech principles from a legal standpoint since they do not fall under the constitutional protection of free speech. In other words, the Constitution does not address how public service broadcasting is organised. Even while the government-organized businesses have, of course, changed, the system's overall design still adheres to the initial concepts of a state-controlled service. The no rule-rule continues to be its polar opposite. The democratically significant role of publicly funded public service corporations in the current media system necessitates some sort of constitutional restriction regarding their institutional autonomy and organisational structure. The idea that the independence of the Swedish public service corporations is adequately taken care of seems to be widespread. This is a misperception in terms of the constitution.

Factually speaking, the corporations currently have strong positions as a result of popular and governmental backing. There is no constitutional safety net in the event that this changes, though. The foundational elements of Sweden's public service broadcasting today might be readily changed by any political administration. The surrounding legal framework largely serves as window dressing to give the institutions the appearance of independence. Of course, one might argue that significant changes are unlikely to occur, but such arguments are typically viewed as irrelevant from a constitutional standpoint because constitutional protection is always predicated on the worst case scenario. The lack of constitutional barriers preventing a new Government from interfering with the Swedish public service institutions in the same manner as some other nations should alarm journalists at least within the publicly sponsored media organisations. Additionally, it is possible to speculate whether a system without constitutional stability could not be more susceptible to covert political and governmental influence than is often believed.

### **Redefining the public sector**

The essential tenet of press freedom, at least as I understand it, and the Fourth Estate theory, the "no rule-rule," is the exact opposite of the tenet of public service broadcasting, which holds that we must depend on the government to get things right. These two concepts can coexist side by side, as they have under Sweden's dual media system. Information, journalism, and public discourse will ultimately be ruled by political institutions if public service broadcasting is not balanced by robust, economically sound, and independently owned media. This might result in a politicised media system, both theoretically and practically. Naturally, a system like this might provide for society requirements and serve residents well, in keeping with the long history of public service. However, it would be exceedingly vulnerable to shifts in public opinion and the political landscape. Therefore, rather of remaining an Estate of their own, it is more possible that the public service corporations will become more or less merged with the government [11], [12].

### **CONCLUSION**

A constitutionally registered public service media agency, or a governmental organization founded on basic law, is a novel constitutional idea. Explicit rules on what the public service agency shall do and not do, how it may be managed, maintaining its independence, etc., need to be put into the Constitution in place of the no rule-rule based on freedom of expression. Evidently, this would drastically skew our current understanding of free speech. There are other issues besides those already mentioned. Reevaluating what public service entails is one way to avoid the path leading to a media system that is politically controlled. The media environment makes it abundantly clear that there have been and continue to be media players that provide public service outside of the publicly supported businesses. If it weren't for this, the term "the Fourth Estate" would never have been created and the press subsidy system would never have been instituted by politicians. Public media services can be offered in a variety of ways, literally. Therefore, we should begin seeing public service as a constitutional role rather than as public institutions if we wish to preserve something that resembles the dual media system in the convergent media environment.

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## CHAPTER 5

### EXPLORING THE VISION TOWARDS A PEOPLE'S INTERNET

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#### **ABSTRACT:**

The media landscape in the US is predominantly a commercial one, dominated by a limited number of businesses with lax regulations, and counterbalanced by a lack-luster public alternative. This was not inevitable; it was the conclusion of certain policy conflicts and the victory of particular values. Focusing on "corporate libertarian-ism," which focuses negative liberties (freedom from) rather than positive ones (freedom for), might help you grasp this argument. The First Amendment is a prime example of how much US media law and policy have historically been phrased in derogatory terms. However, there are also long-forgotten customs that are influenced by a positive rights rhetoric. In contrast to the private rights of businesses, this social democratic perspective values media variety and defends the collective rights possessed by publics, audiences, and communities. This chapter explores media strategies for the digital era built on positive liberties using historical case studies.

#### **KEYWORDS:**

Financial Crisis, Governance, Greece, Journalism, Social Movements.

#### **INTRODUCTION**

The American media landscape as a whole is unusual. It is largely a commercial system that is dominated by a few number of firms, barely governed by safeguards for the public good, and counterbalanced by subpar public alternatives. One or two of these issues are common in many other nations, but never all three. This "American exceptionalism" was hotly debated; it wasn't inevitable or natural. The system that Americans currently use is the outcome of certain policy conflicts as well as the triumph of some logics and ideals over others. This system, in particular, is based on a theory I call "corporate libertarianism," in which media companies' negative rights are given preference over other people's positive rights. Even if this paradigm still rules in the US today, it may not always be so. Hegemonic connections take a lot of work to maintain them, but in order to oppose them, this ideological labour must be made public. We could see possible flaws, alternatives, and political openings that can be taken advantage of inside the rhetorical struggles and manoeuvres used to uphold the existing quo. This article strives to accomplish this goal to elucidate the corporate libertarian project's intellectual and historical foundations. It suggests a counter-narrative built on liberties that pave the way for structural alternatives to the oligopolistic paradigm that is becoming more and more prevalent. Although the American media system is my main case study, many of its issues are somewhat common in other nations[1], [2].

#### **Corporate libertarianism's reasoning**

We must first histories corporate libertarianism in order to comprehend how it spread throughout the US. A significant portion of its ideological foundations may be traced to policy conflicts in the 1940s, when a social democratic press vision was substantially

overthrown due to anti-communist hysteria and red baiting (Pickard 2015a). In its place, a social contract with three characteristics media self-regulation, industry-defined social responsibility, and negative liberties rather than a positive one the freedom to or for a diverse media system emerged. It is not surprising that the benefits of this arrangement went primarily to media corporations rather than to the general public. In the decades after World War II, particularly in the area of corporate speech, this expansion of corporate power, aided by a focus on negative rights, has only become worse. Recent events include the Citizens United ruling by the Supreme Court and defences of Internet regulations like net neutrality. Negative rights coupled with corporate power undoubtedly provide a serious threat to democracy [3], [4].

Thinking about the crucial contrast between speech that is driven by the market and speech that is driven by democracy might help us comprehend this difficulty. The latter takes into account more general normative aims, such as the level of diversity/pluralism within a media system and concerns surrounding equitable access to the media system, whereas the former is controlled by the power of money. A democracy-driven approach may also provide significant positive liberties, such as safeguards against different sorts of monitoring and privacy violations. When he said, "While we have taken measures to ensure the sanctity of that which is said, we have not inquired whether, as a practical matter, the difficulty of access to the media of communication has made the right of expression somewhat mythical", Barron made this implication. In other words, even if there may be nominal freedoms of expression, genuine democratic processes may be hampered by hidden structural limitations and injustices [5], [6].

In spite of objections like Barron's, the market-driven paradigm, with a focus on libertarian negative rights, has grown to dominate in the US in recent years. The greatest explanation for this paradigm's continued ascent in the 1980s came from Fowler and Brenner who demanded a "marketplace approach" to media regulation. During the Reagan administration's period of deregulatory change, Fowler presided over the Federal Communications Commission (FCC). His treatment of media as primarily products that were defined by vulgar "supply and demand" economics led to the FCC eliminating many public interest protections that were seen as obstacles to an unrestricted free market. For his statement that television was nothing more than "a toaster with pictures." The 'market censorship' that systematically limits the variety of voices and points of view that are portrayed is made possible by this approach's failure to identify structural biases and limitations in a commercial media system.

American media policy's laissez-faire attitude continues to degrade discussions of press freedom and positive speech rights. Ideological foundations for American 'freedom of the press' date back to significant developments in the early postwar period. The Hutchins Commission, for instance, basically supported the previous libertarian model by determining that government could or should do relatively little to encourage public service journalism, although defining what eventually came to be known as the "social responsibility model" of the press. This libertarian paradigm tints many presumptions about American journalism, notably the assumed organic link between the press and government, which is implicated in a wide range of shortcomings in the American media system. The government is always involved, usually in ways that benefit corporations, such as copyright laws, the relaxation of antitrust laws, spectrum giveaways, and many other direct and indirect subsidies. However, it is widely assumed that there is no relationship, which is of course a libertarian fantasy. The

actual problem is thus how the government ought to be involved. A counter-narrative is necessary in order to combat this corporate libertarianism [7], [8].

## DISCUSSION

Any progressive media reform plan depends on a clear articulation of positive freedoms, even though the negative/positive dichotomy is not perfect (see the chapters in this collection by Kenyon and Karppinen for a thorough discussion of some of the virtues and drawbacks of such framing). In fact, it's nearly difficult to address media inequality at a time of corporate libertarianism without a detailed grasp of the ways in which various definitions of freedom highlight and ignore certain components of individual and social liberty. A progressive agenda must make a compelling case for why other sources of tyranny (like concentrated corporate power) and positive liberties in general require affirmative protections from the state, even though privacy rights and freedom of expression are founded on negative liberties that protect us from state tyranny. More recent arguments (Ammori 2012; Kenyon 2014) as well as previous ones (Meiklejohn 1948; Barron 1967) have been made in a growing body of research on the value of positive freedoms for democracy. Such thought has, however, only sporadically entered US legal and policy debate.

American normative speech has historically been defined negatively, with an absolutist interpretation of the US First Amendment serving as an example ("Congress" shall not enact any legislation that restricts the freedom of the press or of speech"). However, there are also long-forgotten customs that depend on a pro-rights rhetoric. Article 19 of the Universal Declaration of Human Rights codified the right to "receive and impart information and ideas through any media," and the UNESCO-led "Media and Information Literacy" campaign (UNESCO, N.D.) seeks to promote "equitable access to information and knowledge" and "free, independent, and pluralistic media and information systems." Although global manifestations are more frequent, even the largely unfavorable US policy. These instruments from the country's history can help Americans reinvigorate their regulatory imagination as they turn to the future [9], [10].

The Supreme Court's decision in the 1945 Associated Press (AP) case, when the AP attempted to justify antitrust protections based on its First Amendment rights, is a notable example of an earlier potent articulation of positive liberties. This argument was rejected by the Supreme Court, which noted that the First Amendment "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of free society...freedom to publish means freedom for all and not for some." The court added, "It would be strange indeed...if the grave concern for freedom of the press which prompted adoption of the First Amendment were to turn out to be a concern for only some publications.

Similar declarations on the value of positive liberties and the need for the government to uphold them can be found throughout American history. Although this logic has been in retreat in recent decades, a brief discursive window of opportunity emerged more recently during the years of 2009-2011 at the height of the journalism crisis. The Supreme Court's 1969 *Red Lion* decision upholding the Fairness Doctrine was another high-water mark of this positive-rights discourse, which stated that "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount." At this time, radical proposals for media reform, including new normative foundations for media policy based on positive freedoms



that underlined journalism's public service purpose, suddenly rose to prominence. Direct press subsidies to the development of a programme to promote journalistic jobs were among the policy recommendations. Although brief, a comparable chance could arise again, therefore reformers should be mentally prepared for it. Indeed, the philosophical underpinnings of a new reformist era seem to be emerging, as seen by the fact that historically informed critiques are starting to challenge corporate libertarian tenets. Recent studies, such as Zephyr Teachout's *Corruption in America* and Susan Crawford's *Captive Audience*, as well as the increasing focus on different types of inequality in academic and popular discourses (and the state as the most efficient tool for addressing this injustice), testify to a young but developing intellectual movement. Further evidence that pro-positive liberty arguments are starting to gain ground in the US comes from the policy rhetoric around current net neutrality issues. According to FCC Chair Tom Wheeler, net neutrality "is no more a plan to regulate the Internet than the First Amendment is a plan to regulate speech" refuting corporate libertarian assertions that it amounts to a government takeover.

Despite these indications, the majority of the political impetus at the present appears to be shifting in the opposite direction, particularly in the courts. One such worrying trend is sometimes described as a return to the 'Lochner era,' a time in early 20th-century legal history when the courts scrutinised economic regulations closely and frequently agreed with claims that such governmental intrusions violated the constitutional rights of corporations. As a result, the phrase "Lochnerization" refers to the courts declaring a legislation unconstitutional based on an absurd interpretation of "due process" that grants certain fundamental rights to businesses (basically treating corporations like individuals). Similar arguments are being made in lawsuits that are now being brought against the FCC's net neutrality decision. Verizon utilised a similar line of reasoning in its arguments before the DC Circuit Court during the net neutrality case. Such corporate libertarian defences against government interference are intended to undermine the First Amendment, rendering the state incapable of addressing systemic imbalances. Legal and normative justifications for state involvement are required to counter this ideological framework.

The claim that news media play a unique function in democratic society is a crucial starting point. The press's business, according to Justice Frankfurter's argument in the 1945 AP case, "is the promotion of truth regarding public matters by providing the basis for an understanding of them." This emphasises the main point that news and information are in a separate category not amenable to the standard 'supply and demand' connections that characterise commodities. Truth and understanding are not goods like peanuts or potatoes... [that have] just a business element. The news media, to put it another way, are not just "widgets" or "toasters with pictures," but rather they are necessary for a functioning democracy.

In recent years, there has been an increase in US awareness of the idea that news media content should be viewed as a public benefit. In contrast to other commodities, like peanuts and potatoes, in a capitalist system, public goods are non-rivalrous (one person's use does not detract from another's) and non-excludable (impossible to prohibit "free riders"). A healthy society requires a number of public goods, such as artificial light, clean air, and information, to provide significant positive externalities. Externalities are advantages that accrue to parties other than those involved in the direct economic transaction. We may even claim that news media are "merit goods": things that society needs but people don't necessarily want.

Typically, in an uncontrolled market, undervalue (are unable or unwilling to pay for), resulting in underproduction as a result, the idea of "market failure" becomes relevant (Pickard 2015a). Many academics invoke public benefits in their analysis's conclusion, but we should expand the justification to point out structural faults that call for government involvement in the media markets. Market failure, which often refers to the market's incapacity to distribute significant products and services effectively, originates from neoclassical economic theory and is far from being a radical Marxist criticism (Taylor 2007:15). This often happens when customers refuse to pay for the full societal value of such services or when private industry withholds investing in crucial social services because it cannot extract the profits that would justify spending. Although the history of American media can be seen as a history of systemic market failure, Pickard (2014) notes that these repeating patterns are frequently ignored in popular policy debate. By addressing this shortcoming, we might ask what good liberties can entail in the digital era and what policy changes are necessary to safeguard them. The reform programme I provide below is specifically geared towards the American situation, although many of these changes are equally adaptable to other national settings.

### **A plan for Internet reform**

A two-pronged reform agenda could work to actualize positive liberty principles while challenging the laissez faire market fundamentalist model in the US, with one focus on controlling Internet oligopolies and the other focus on developing alternative communication infrastructures, especially with regard to ownership and control. Both strategies would be based on positive rights of access and work to reduce the still sizable digital gap in the US. A number of legislative changes might help with infrastructure development and lower broadband prices. One structural precaution that goes beyond the non-discrimination principles guaranteed by net neutrality is the revitalization of antitrust practises to intervene against regional Internet monopolies. Another crucial step in avoiding the artificial scarcity induced by Internet monopolies is the establishment of municipal broadband networks that are owned and managed by local communities. Currently, legislation have been implemented in around 20 states (often as a result of strong lobbying by the major Internet service providers) that make such local efforts extremely challenging. The FCC has started to 'pre-empt' some of these state laws, although this step has not yet been widely adopted as a regulatory measure.

In addition to these Internet-specific actions, the US should develop a stronger programme for the government's delivery of public service journalism. Leveraging already-existing public infrastructure to facilitate the production of local news is a change I advocate in more detail elsewhere content. More precisely, I propose converting post offices and public libraries into neighbourhood media hubs that enable not only access to the Internet and local news consumption, but also local news production. Other changes aimed at enhancing public service journalism could include tax breaks for struggling media organisations to change their tax status to low- and non-profit, as well as government-sponsored research and development projects for novel digital models that might include public/private hybrids. Together, these efforts would assist journalism's public service purpose be restored by removing or reducing commercial constraints. But in order for these reforms to take place, new normative underpinnings that foreground the public service role of media and are founded on positive freedoms are required.

Such a democratic-centered strategy views media as an essential infrastructure rather than just a commercial good. The US First Amendment should support genuine chances for press and speech freedoms, not be used as a barrier to structural improvements. While both negative and positive rights are necessary for a functioning democracy, freedom of expression cannot merely be presumptively guaranteed by the lack of government action (Kenyon 2014). Particularly in media systems run by a commercial logic, freedom of speech requires a proactive state to assist establish the essential conditions (Pickard 2013). This necessitates a social democratic perspective where a system's value is determined by how it helps society as a whole rather than how it supports individual liberties, private property rights, and profits for a small number of people.

How should this project be defined? Such a strategy supports the notion of varied voices and points of view in the media system. It has the same level of scepticism against corporate players' use of private, concentrated media as governments do. It must safeguard collective rights held by publics, audiences, and communities over corporate individuals in digital and international environments. Additionally, it must raise those positive liberties that accord universal access rights at least equal importance to the individual liberties that libertarianism and classical liberalism most highly value. This approach legitimises an active state that re-allocates communication resources in the very inequitable world of today (Freedman 2014), when media dominance is concentrated within a small number of corporate players. It promotes an integrated system of media with structural alternatives to market-based approaches. But before moving forward with this initiative, we must fight corporate libertarianism. This will need intellectual effort; which academics are well-equipped to provide.

The intricacy of the effects the financial crisis has had on the continent, impacting not just its markets but most crucially the public sector and its public sphere, makes it practically hard to talk about media and freedom of speech in Europe today. It would be incorrect to think that the "financial crisis" currently affecting Europe is only a problem with how markets are structured economically and financially, or that it is primarily a problem in the "unruly" southern regions of the continent.<sup>1</sup> What began as a worldwide banking crisis evolved into a long-term challenge affecting many facets of social and even political life, in addition to financial and market-related issues.

The media perform a dual function in this situation: on the one hand, as market participants, they are impacted by changes in the financial system; on the other hand, they are essential in assisting individuals in making well-informed judgments. These two responsibilities are not always compatible since the press's financial and political interests are frequently entwined, which compromises journalism's capacity to give the public access to information, particularly in cases of political opposition. When these conflicts exist, democratic discourse and free speech are while commercial material, or so-called market-driven free expression, is preserved, the former is in risk.

The debate that follows examines the complex factors limiting free expression through the prism of ongoing and many crises in Europe. It places the growing media reliance on market-driven content and the deteriorating standards of 'democracy-driven' free speech within the complex context of the media industries' financial and political dependence and conflicts of interest, journalists' precarious employment conditions, legal change, and institutional dismantling. These elements result in direct and indirect, structural and ideological

restrictions on free speech that are driven by democracy, stifling dissent and critical, non-dominant narratives throughout the European crisis [11], [12].

## CONCLUSION

The chapter discusses two distinct, yet connected, media environments: the prevailing status quo of European presses producing one-dimensional narratives of the crisis linked to their political and economic position in the market and politics, and the oppositional efforts made by the public and disenfranchised journalists to establish deliberative spaces through new journalism projects. The chapter makes the case that in order to comprehend free speech, we must broaden our understanding of governance beyond defining legal frameworks and take into account intangible elements, such as the ideological foundations of media normativity, as well as the larger institutional framework of a specific society. It intends to assess and link recent developments in media freedom, particularly as they relate to the financial crisis, which might promote market-driven content and seriously curtail democracy-driven freedom of expression.

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## CHAPTER 6

### THE DEMOCRATIC DYNAMICS OF GOVERNMENT CONSULTATIONS

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#### **ABSTRACT:**

Governments are using consultation and electronic consultation methods more frequently. In this chapter, the function of consultation as a new kind of government technology is examined. Consultation during the creation of policies might rekindle democratic engagement, but it also frequently mute opinions via a form of participatory disempowerment; it can also remove the public service's democratic ties to the state. The chapter provides a viewpoint on govern mentality that questions what, in this setting, participation, democratic engagement, and free speech entail, as well as how concepts of publicness are created, managed, and regulated. The nature of consultation, its relevance to concepts of free speech and speaking freely, and its ability to strengthen subaltern counter-publics that can develop opposing theories and push alternative conclusions are the main points of discussion. The goal is to get a sense of how democratically adequate the consultation process is and how democratic interaction may be arranged here, for better or worse.

#### **KEYWORDS:**

E-Democracy, Govern mentality, Key Consultation, New Technology, Participation.

#### **INTRODUCTION**

The usage of consultation processes is expanding on a global scale. This is partially about emphasising voice and attempting to increase democratic involvement in situations when formal electoral politics frequently appears sterile. A consultation process is frequently viewed as a required step before a policy initiative, or just as a tool to gauge public opinion or bring the government closer to the people it is supposed to serve. Here, new information technology appears to provide specific opportunities for directness and immediacy for governments.<sup>1</sup> This technology also offers to demonstrate a government's credentials as a contemporary force fit for a web-based society. In a policy-making setting, there is also the potential to enlist the "wisdom of the crowd" and perhaps even to imply that voices that might not otherwise be heard can participate on an equal footing. Many initiatives today, from community development initiatives to planning procedures to sustainability initiatives, call for a "community planning process."

Before government action is made, 'the community' must first be 'engaged with' (Bentley & Pugalis 2013). The UK Government's website page for "Consultations" lists 948 consultations published in 2015 alone, out of a total of 2,948 since the decade began.<sup>3</sup> There is particular interest in utilising the benefits of the Internet in various fields, especially governmental planning and the environment. It is debatable whether the political culture of the United Kingdom is conducive to participatory innovation (Bogdanor 2009). The

immediacy, reach, and interaction that the Internet and similar technologies may offer to the business of government are at the heart of these benefits [1], [2].

Now-a-days, it seems like many public organisations, like the BBC, always provide opportunities for involvement via their websites, Twitter, or Facebook. Large businesses will typically have a Facebook page or Twitter account (for examples, see <https://www.facebook.com/daz> and <https://twitter.com/hartleysjelly>) and offer anything from jam to washing powder. There are growing expectations concerning consultation from the citizen side, along with a belief in its effectiveness. The internet culture, which believes in the power of crowdsourcing, the participatory dynamic of open source working, the sharing economy, and the idea that free, democratic speech can be communicated with the click of a mouse, may have something to do with this in part. In this volume, Johansson and Bengtsson make the case that the Internet alters our perspectives in a variety of ways that rely on a number of factors, with younger people in particular having more favourable attitudes towards online life. Several online resources have emerged to capitalise on this enthusiasm, including Change.org, 38 degrees, GetUp.org, and Avaaz.org. However, the most well-known example of online activism is still Kony 2012, a YouTube video with 120 million viewers in 5 days that raised \$16 million in an unsuccessful attempt to apprehend a warlord in Uganda. Many of these websites allow users to start petitions, such as [ipetition.com](http://ipetition.com) and [Petitionbuzz.com](http://Petitionbuzz.com) [3], [4].

The TripAdvisor-style evaluations that these publications encourage, however, continue to be an extremely harsh/thin representation of democratic power. Is just clicking "like" on a website truly fulfilling one's civic duty? What follows is what? Even the various government websites that have their own petition sites only provide a shaky guarantee of action, such as the main UK site's claim that 10,000 signatures will result in "a response" and that more than 100,000 signatures will result in the petition being "almost always" debated in a committee.<sup>5</sup> This reminds one of mediaeval rituals in which the common people (or at least those with access to ICT) petitioned their masters, and it may be about as effective. In fact, it may suppress dissent and stifle action as people lose contact with those who share their opinions, in contrast to genuine political movements that unite people to spark change [5], [6].

Beyond this potential effort to revitalise the democratic system, consultation is being utilised more and more to improve the kinds of market-based service delivery models that public services have been developed in several modernised states. When we turn public services into a consumer model, atomize people into customers and more or less specialised "communities," and only ask for their input through "plans for community provision," fictitious "choices" between various providers, and satisfaction surveys, there are a number of arguments to be made about the democratic adequacy of this approach. It is clear that most of the involvement in this brave new (often online) world is of a very restricted type if we refer back to Arnstein's (1969) classic description of the degrees of participation and their link to democratic adequacy.

Increased usage of consultation, whether it be in a formal, conventional manner or increasingly in ways that take use of the new opportunities that the internet environment presents, does not always result in more open communication between citizens and government or more attentive listening on their parts. Online connection has given our daily lives traits like higher interactivity, wider reach, and improved immediacy, yet these attributes do not inescapably drastically improve the quality of democratic participation. As

several commentators have attempted to clarify, maybe in agreement with Arnstein, there is a distinction between. Only the last of these, "e-empowering," implies a more direct level of public interaction (Dahlberg 2011; United Nations 2003, 2009; Tambouris et al. 2007). Now that it's simpler to express ourselves with a mouse click, we may be able to talk more freely, but is the voice of the populace being heard? Perhaps it would be preferable to view this as a fresh kind of governmentality (Foucault 1994; Rose 1999; Miller and Rose 2009; Dean 2007; 2010). Here, the emphasis is on the nature of consultation, including how it relates to concepts of free speech and expression, how it can influence and govern the conversation, and how it might give subaltern counterpublics more power to develop opposing theories and push alternative conclusions. There is definitely opportunity for a larger undertaking to establish an understanding of the democratic sufficiency for any proper and really participatory engagement as well as to develop a notion of the democratic adequacy of current consultation methods.

## DISCUSSION

Assuming that voices are heard and proper action is taken, the engagement, conversation, and free speech space offered by a government consultation exercise is really more complex and undoubtedly less democratic than it may initially appear. In fact, the way participation structures really work implies that they might not necessarily be a forum for an equal exchange of views between official and participant viewpoints. Even a controlling agenda might be in play. A number of critics have pointed out how official constructions of "the public," as well as of community and citizenship, not only influence the conceptions that officials draw upon when they create new forums for participation, but also shape the conceptions that participants in such forums themselves bring to the dialogue process (Price 2000; McLaverty 2009; Davidson & Elstub 2014). This author has discussed this issue elsewhere (Morison 2010). The way a discussion is conducted, its goal, and the information sources are frequently within the authority of the government (Smith & Wales 2000). The government extends invitations to participate, consensus is always sought, and authorities maintain the records. In this argument, perceived competence, concepts of "science," "fact," and "evidence," may prevail over more commonplace forms of knowledge. This shows that rather than being a forum for open discourse and attentive administration, the entire event may be more about depoliticizing and avoiding controversy than it is about hearing fresh perspectives on governing. For voices to have meaning or importance, Lewis reminds us in this book, building on Couldry's (2010) examination of voice within market economics. Since the power of a process where the opinions of a chosen public have been portrayed as the consensus, the sheer act of consultation itself may limit the possibility for disagreement [7], [8].

### **Authoritative**

In fact, it may be suspected that in the context of consultations about how public services are provided, efforts to re-work "the public" and the emphasis on ideas of empowerment may in fact conceal attempts to move away from conceptions of the public that accord with older ideas of a welfare state and universalist notions of public good, as well as a shift of power towards existing authority - whether within the state directly or in associated private bodies. Despite all the hype about user involvement, just having users participate in public services as customers does not guarantee that such services will continue to be political in nature, and so public or democratic in a broader sense.



A lot of the language surrounding consultation calls for increased public involvement and interaction with the government, as well as a redesign of public services to make them more user-responsive. But if one adopts a governmentality perspective, it might be argued that much of this entails putting into practise a broader process of governing by creating and re-creating conceptions of the public, community, and individual citizen-consumers who may then play a part in their own governance. This particular form of government involves the distribution of state power through individual citizen-consumers and self-governing bodies or agencies that rule themselves in accordance with the power models found in concepts like localism and community, participation and dialogue, choice and personalization, service and outcomes, etc. These controlling principles are designed to be opposed to (or rather, to take the place of) conventional notions of equitable state supply.

In fact, it has been suggested that participation-related concepts are employed to separate public services from an integrated public sector and weaken their so-called "democratic anchorage" inside the state. Instead, a more flexible definition of stakeholder involvement and public participation within a hybrid model of service is available (Srensen & Torfing 2006). It entails the development of "'ordinary peoples,' who can be called upon as partners or participants in new assemblages of rule," as some critics claim (Clarke & Newman 2008:46; Rose 1999). The public should be viewed functioning as both customers and citizens, but they should also be regarded as participants who are knowledgeable about their own circumstances and capable of representing what it is like to be a consumer or user of services as they become more involved in their own government.

It is obvious that, whether or not new technology is used, government discussions may not always lead to an open space for expanded thinking or communicative democracy in the Habermasian sense. While universalist ideas, developed without fully recognising gender, ethnicity, and other differences, may potentially conceal the problematic access to citizenship for many groups, there are well-known issues with inclusion and disagreement (Nash 2014). The governmentality method emphasises that power is never monolithic or acting in a single direction, hence it is crucial to fully establish this concept. Power is rhizomatic, meaning it may be found anywhere. There is potential for resistance and modification when electricity is operationalized and passed down the chain.

People are not only 'passive subjects' but rather 'active subjects' who not only participate in the not just exercise but also influence and enlighten government. This happens everywhere, both in consultations and e-consultations. Opportunities exist for what Fraser terms "subaltern counterpublics" to organise, disseminate counter discourses, and develop opposing viewpoints (Fraser 1997). In fact, it is certain that the features of Web 2.0 will make this nearly inevitable as consulting goes more and more online. Counterpublics with opposing viewpoints can emerge online and mobilise virtually (but not quite) on an equal basis to more official sources, as part of the experience of the Arab Spring revealed (although ambiguously) (Morozov 2012; Drache 2008). In the internet environment, people have a choice as to whether they want to become just new models of citizens inside a larger state-sponsored programme or more rebellious, active, and aggressive citizens within their own governance initiatives. people may already be irrevocably customers [9], [10].

### **Aiming for adequate democratic standards in government dialogues**

Undoubtedly, there is potential for a more comprehensive investigation that may analyse the components of democracy as they are used in the many consultation situations where the concepts of speaking and listening freely are on offer. A first attempt at illustrating how technology, participation, and democratic decision-making may work together is made in Figure 2 below. A deeper comprehension of the democratic character of consultation and its connection to a larger governmental process is necessary at this more in-depth level. When democracy is audited, it may be discovered that many government consultations are tokenistic rather than reflecting a more comprehensive sense of participation.

In the absence of such an audit, it is interesting to note how judges in the UK, including the Supreme Court, have shown an increasing interest in the quality of consultation as a result of a number of cases that have been brought before the courts, many of which are challenges to public spending cuts, particularly against local authorities. Some of them are related to various statutory obligations to consult, while others hint that there may be a common law need to consult that results from a common law obligation to behave honestly. As we shall see, these are more like very basic fairness requirements than a formula for any kind of expanded Habermasian free speech and attentive listening space.

The consultation must occur when ideas are still in the early stages. That the proposer must provide adequate justification for every idea in order to allow for thoughtful assessment and reaction. Ensure that sufficient time is allowed for thought and reaction; and that the outcome of consultation is thoughtfully considered when making the decision. However, the overall position remains that the courts generally allow public bodies a wide degree of discretion as to the options on which to consult, and this may only show the very modest limits of consultation as it is currently policed by law. A number of cases have further shaped the law, holding that consultation as an element of the duty of fairness is intensely case-sensitive.

Unlike most other contributions, it focuses on how the specific speech involved in interactions between government and citizens is threatened, and it sees the main source of this threat as the way that this potentially democratic interaction is structured so that it allows the powerful to ignore what is being said. It has highlighted an area where the government claims to provide a forum for residents to openly discuss policies and services through its consultation processes. In exchange, there is a demand that the government pay attention to these citizen voices. However, it is clear from a standpoint of governmentality that this transaction is not truly democratic. Contrary to appearances, voice is not being given preference. Instead, there is the concept of consultation as a component of a new technology of governance, which includes a number of initiatives, plans, and assemblages intended to inspire local communities and other consultation targets to act as both policymakers and policymakers' agents. We may also see how concepts of publicness are created, maintained, and regulated in this context. Such governmentality-related participation techniques can be used in the context of service delivery consultation to reconfigure public services into a consumerist model, separate them from an integrated public sector, and undermine the notion that public services within the state are an expression of the public. Consultation can be enlisted in a process of recreating the public sphere that has a justificatory veneer of democratic involvement in the larger context of legitimising governance [11], [12].

## CONCLUSION

This necessitates a new initiative that will not only further our knowledge of consultation as it currently exists, but also reevaluate how it relates to concepts of free speech and voicing one's mind. The ability of consultees to direct and influence the consultation process must be strengthened, and the capability of subaltern counterpublics to create opposing narratives and push for alternative conclusions must also be expanded. This new initiative needs to create an understanding of how democratically adequate the consultation process is, as well as how democratic involvement in this context might be constructed both successfully and poorly. The new initiative that is being pushed here also include investigating what it could entail to restore consultation and turn it into a legitimate tool for democratic renewal. This includes integrating some of the e-technologies with accurate conceptions of democracy (rather than glitzy techniques that only capture clicks and produce seeming agreement).

Another component of this entails carefully examining not only how democratic theory is applied to consultation techniques, but also how more practical quality controls are applied to consultation when it is used to collect opinions using geographic information systems (GIS) and other visualisation systems, complex votes and counts, as well as the power of the crowd and access to big data in a process that is currently frequently very far from democratic. It entails using web 2.0 technology, appropriating the interactive, user-generated character of a process that may reach more people more affordably and successfully than traditional consulting techniques, and making sure that it is used in ways that are really emancipatory. Contrary to many contributions in this book, this one is not concerned with the larger question of free speech, telling the truth to authority, or even putting out viewpoints that, while unconventional, should be heard and protected. Instead, it's about the much more commonplace activity of individuals engaging with their own government. But this is equally significant. It entails collaborating with the fresh using information technology to offer people a genuine say in how their government operates. Instead of turning this exercise into a participative de-politicization by masking voices while simultaneously pretending to hear them, government must engage in a discourse in which it genuinely listens.

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## CHAPTER 7

### THE COMMERCIAL CONSTRAINTS ON SPEECH LIMIT DEMOCRATIC DEBATE

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#### **ABSTRACT:**

It is frequently believed that because the digital media revolution has increased the number of platforms, venues, and opportunities for free expression, our society is now more open and democratic. This chapter focuses on how commercial media and communications systems continue to impose restrictions on free speech, constrict our cultural perspectives, and enclose the terrain for free, democratic discussion. It looks at three different scenarios when this occurs: The ideological effects of advertising becoming a more significant source of funding for culture and information. The dependency of cultural industries on a limited number of massive information suppliers. The business model for the commercial news sector has faced challenges since the digital revolution. Advertising's voice has gotten to the point that it now overrides all other options. We must encourage other sources of finance for the creative industries if we want to foster more vibrant freedom of speech. These opportunities—for a healthy freedom of speech—are currently dwindling before our very eyes.

#### **KEYWORDS:**

Advertising, Commercial Media, Democratic Media, Free Speech, Media Content.

#### **INTRODUCTION**

The development of digital media has increased the number of platforms, discussion groups, and opportunities for free expression. However, the democratic potential of the digital world has been restricted by the dominance of a commercial media and communications system. It is sometimes claimed that this makes our society more open and democratic. This program sets restrictions on free expression, narrows our cultural perspectives, and limits the spaces for free, democratic discussion since it is organised by particular economic imperatives. Differentiating between free speech that is driven by the market and free speech that is driven by democracy is important in exploring this idea. Traditional concepts of free speech tend to be democratic in nature: free speech campaigns are often held in a broadly political context, and it is usually the repression of political ideas (in the broadest sense) that raises the most alarm. Although they are increasingly influencing how laws restricting speech are interpreted (particularly in nations like the US), market-driven conceptions of free speech are less well stated and sometimes presume an equivalency between free expression and the market. This equivalency, I shall contend, is flawed since the market itself favours some forms of expression while suppressing others [1], [2].

I want to start by differentiating between three types of speech restrictions. The first focuses on governmental constraints like censorship. These limitations are enshrined in legal frameworks, and those who breach them are subject to a number of penalties. These

restrictions on free speech frequently amount to a blatant and chronic violation of people's right to freedom of expression in less democratic, more authoritarian governments. Based on the idea that free speech may only be restricted if it causes harm, such limits are used more sparingly in more developed, open democracies. Of course, there is a lot of discussion and disagreement about how this harm is defined, including whether it encompasses ideas of "national security" or the encouragement of hatred [3], [4].

The second type of constraint is also governed by legal frameworks, but it is policed or run by corporations rather than by the government. Arne Hintz notes that as commercial organisations become more closely associated with forms of state monitoring, the distinction between corporate and governmental limits on free expression are becoming increasingly muddled in the digital era (Hintz 2014). The digital era has also seen an increase in the use of intellectual property (IP) law, particularly by multinational corporations. Although intellectual property laws are meant to safeguard artistic expression, they are increasingly being applied to restrict free speech or even charge for it (McLeod 2001; 2005). So, for instance, copyright and trademark law restricts my ability to produce a book on advertising. The third restriction on free speech is the least severe because it often isn't covered by statute legislation. We need to look at how the freedom of expression is linked to uneven power systems in order to comprehend this type of limitation. These power structures typically have an economic foundation as opposed to a legal one, therefore they aren't as taken seriously as constraints on free speech or free expression that are more firmly rooted in the law or quasi-law. Nevertheless, these restrictions are much more ubiquitous and significant in people's daily lives in the majority of "open" democracies. My attention is on these less severe but no less significant restrictions on freedom of expression [5], [6].

This is a definite shift away from the dominant corporate conceptions in the US, which, as Victor Pickard points out, see freedom of speech as freedom from governmental interference. Instead, this is a shift towards what Andrew Kenyon refers to as "positive free speech," a framework that promotes freedom for a variety of different voices. Does a tree that falls in a silent forest make a sound? This proverb may be revised in the internet era to read, "Has someone really expressed themselves if no one listens?" Does it matter if someone uploads a YouTube video that no one watches? The answer is "yes" in strictly legal terms, which is a technical fact based on ideals rather than actualities. Our understanding of freedom of expression is advanced by Nick Couldry's examination of the idea of "voice" in market economies (Couldry 2010). Most liberal democracies would agree with his starting position, which is that democratic citizenship depends on individuals being able to express their views, concerns, and identities. But he goes a step further: he emphasises that in order for voices to be heard, they must also be meaningful or significant in order for them to be successful.

According to Couldry, market economies theoretically provide citizens the right to free speech, but in practise they can limit that right based on their status and access to economic or cultural power. The fact that the news media is privately owned and favours some voices (those who share the owners' ideologies) while excluding others (those who don't) is one of the most obvious examples of this. The more leeway we give private media owners—through, for instance, loosening restrictions on monopolies or relaxing standards for objectivity (as, for instance, in US broadcasting)—the less opportunity there is for other viewpoints to be heard. According to studies, in such a setting, residents' ability to talk is both constrained and heavily restricted (Lewis, Inthorn, & Wahl-Jorgensen 2005). This disparity in

voice served as the intellectual foundation for the Leveson Enquiry into the UK Press. Many of the widely reported crimes that sparked the investigation, including phone tampering, were caused by press regulation, according to opponents of the practise. They were already constrained by the law. However, they also believed that the structural disparities inherent in a system where substantial sums of wealth are needed to operate a profitable newspaper were the norm. The market-driven interpretation of free speech contends that newspapers merely publish the opinions of their readers and that ideological bias arises from the bottom up.

The notion that newspapers reflect the political views of the populace is obviously false, even if there is a clear link between the opinions of newspapers and those of their readers. For instance, the Sun daily vigorously supported the Conservative Party during the 2015 UK General Election (Deacon et al. 2015). Although a majority of Sun readers (53%) did not vote for the Conservatives, many did, and over a quarter chose Labour, a party that was frequently lampooned and derided by the Sun during the campaign. Even the Daily Mail, the British daily most frequently associated with a right-wing "Middle England" perspective and remorselessly hostile to the Labour Party, had a modest but significant number (14%) of Labour supporters (Kellner 2015). Only the Mail and the Express, both of which are solidly on the political right, are available to Labour voters in the UK who desire a mid-market daily.

## DISCUSSION

Since the British Press barons' heyday in the first half of the 20th century, the majority of newspaper owners have tended to tilt to the right (sometimes excessively), and their publications have been more a reflection of their beliefs than an attempt to represent their readership. When access to wealth serves as the main criterion for media ownership, this is, in fact, a reasonably plausible consequence according to the political economics of media. For many supporters of press control, the goal was to make the system less unbalanced and so permit more freedom of speech. One persistent fallacy of the digital era is that because of its open architecture and low barrier to entry, the Internet bypasses media oligopolies and allows a diversity of viewpoints to be heard (see, for instance, Curran, Fenton & Freedman 2016). Of course, to some extent, this can and does occur, but as Couldry points out, even in the digital sphere, the current market economy rules impose a number of structural restrictions on free speech by favouring particular worldviews and reducing the opportunity for a more open exchange of ideas. Indeed, the Internet has expanded the commercialization of the media audience in a number of ways, as Bengt Johansson and Stina Bengtsson show in their chapter [7], [8].

Big media players are as crucial as ever in a society with an abundance of information sources because they give individuals a simple method to wade through the information muck. The new media oligopoly that has formed to rule the internet world serves as a fascinating example of how capitalism's history, without legislation to stop it, consistently drifts towards monopolies (Chesney 2013). The market dominance that certain businesses, like Google, amass after they occupy a dominating position makes it challenging for rivals to compete. This chapter will concentrate on a distinct and sometimes overlooked component of market-driven speech: the growing importance of advertising as a source of revenue for the dissemination of knowledge and culture. Media have grown increasingly reliant on selling their viewers as the possibility to earn from selling content diminishes. As a result, both in terms of scale and reach, advertising has emerged as our major creative sector (Lewis 2013). All around us, advertisements clog or support most kinds of artistic expression, and they rule

many others (on many TV channels, for instance, advertising has evolved into the primary programming genre in its own right). I shall argue that this has an ideological effect and limits the scope of what may be communicated [9], [10].

The development of the creative and communications medium was viewed by governments at the time as best left to the market, which led to the creation of the Internet. What started out as a public forum for the exchange of ideas transformed into a mostly commercial one sponsored by the sale of viewers to advertising in little more than ten years. I recently discovered, to my surprise and dismay, that occasionally, even my own Ted X speech, which, like this chapter, examines advertising critically, was preceded by an advertisement. Our belief that information should be freely available to us, as well as most other kinds of cultural expression, has been influenced by the Internet's ethos. While certain public service platforms (like the BBC) exist for content generation, the commercial. The majority of commercial content providers have changed their business models to rely nearly entirely on advertising income. Newspapers, for instance, have always been able to employ advertising to support their sales. Only the most specialized periodicals are likely to generate a sizable income from selling their content in the online era.

At the same time, the buying and selling of commodities has grown more deeply ingrained in all of our creative sectors. In the music business, there used to be a distinct line separating commercials from popular music; currently, the two are inseparably linked. Both the goods and the marketing are promoted by the music. Although not nearly as frequently as the customary cinematic montage of pre-movie advertising nowadays, advertisements have long preceded films. However, they are now present throughout the whole film, with product placement and commercial tie-ins becoming commonplace in the business. Most nations now have more ad-supported TV channels than ever before, and the amount of advertising per hour has reached saturation point (in the US, commercial messages currently make up 40% of TV programming) (Lewis 2013). In market economies, advertising acts as a parasite, clinging to popular material despite there being little demand for it. against all of its humour and inventiveness, it is one of the rare examples of cultural expression that exists against popular preferences rather than in response to them. In this way, advertising's dominance in our society may be seen as a paradox: while it has become an increasingly important part of creative expression in a market economy, our desire for more advertising has little to do with its presence. A type of cultural tax that enables us to avoid more direct or communal forms of payment, it is there for producers rather than consumers.

However, most people consider advertising to be benign, though occasionally annoying. The freedom of expression is nevertheless restricted in a variety of ways. Advertising restricts civic participation and political diversity. It is nearly a given that advertisements are ideologically and practically biased. Even if websites or TV shows do not advocate the advantages of consumerism, the prevalence of ads means that, for instance, viewers watch 10 to 15 minutes of television for every hour they spend in front of the television that is devoted to celebrating the delights of consuming. Despite the variations in the programmes, there is a sense in which advertisements themselves are remorselessly repetitious despite their symbolic extravagance. They all claim that the only way to achieve human comfort, freedom, beauty, and health is through consuming material goods. The injustices of global production and the environmental effects of distribution and disposal remain steadfastly suppressed as a result of the advertising industry's promotion of consumption. The ideological ramifications of these



advertising themes cannot be ignored in a time when pro-environment, pro-social justice, and pro-labor union activists are challenging the pro-corporate consumerist ideology's very roots underestimated. There is no political balance here, even when authorities mandate it for programming. As long as they avoid overt party advocacy, marketers are exempt from these regulations.

The *New Rulers of the World*, a John Pilger programme that aired on British television on July 18, 2001, gave me a vivid illustration of this argument. Every 15 minutes, advertisements that some of which, like a Peugeot advertisement featuring motivational images of black women, were made specifically to allay consumer concerns about sweatshop production and corporate ethics contradicted Pilger's argument, which was intended to be a critique of how corporations treat workers in the global economic system. Pilger's point was completely negated by communications intended to calm and deflect. His right to free speech was more stifled than it was repressed.

A double standard is at play in this situation. Few organisations have the motivation or funds to support advertisements that criticise corporate behaviour or consumer culture, thus they are uncommon. But unlike advertisements that promote consumption, they are considered as political and are likely to violate public service impartiality laws wherever they still exist. They are detrimental to business since they run the danger of jeopardising those targets' more profitable funding sources. The *Financial Times*, for instance, is glad to publish puff pieces extolling the benefits of various oil firms, but it declined to publish an advertisement from Amnesty International that criticised Shell's record on respecting human rights in the Niger Delta.

The distinction between journalistic material and advertising is becoming more hazy, as Tamara Piety, Fredrik Stiernstedt, and Eva-Maria Svensson note in respective chapters. This is due to the borders between news copy and advertorials becoming more permeable. The issue here is not only the unique prejudices of some companies; rather, advertising serves as a propaganda tool, if unintentionally, for an entire way of life. Advertising, for instance, has something to say about climate change and trade conditions in a globalised world, two of the most important concerns facing individuals in the twenty-first century. Campaigns promoting brand loyalty are contrasted against those opposing poor wages in the third world. Environmentalists worried about global warming must contend with a deluge of commercial messages that encourage people to consume without considering the implications, in addition to PR tactics intended to obscure the obvious warnings emerging from climate science (Oreskes & Conway 2010). It is understandable why climate change has yet to seriously impact elections. Advertising repeatedly teaches us that as long as we keep buying things, it doesn't matter where they originate from, how they were manufactured, or how their production, distribution, or disposal affect the environment.

The advertising also expresses an opinion about food politics. It exhibits the predominance of a specific food production and consumption system and normalises it. This method frequently favours the production of processed foods since it has a greater possibility for "adding value" to a set of inexpensive components and is frequently more convenient more profitable than, example, selling produce. Although it may be better to limit the use of processed ready meals, we are far more likely to encounter an advertisement for pre-cooked lasagna than for lettuce, leeks, or lentils. Advertising has so unironically normalised the purchase and sale of processed, less-natural foods. This has disastrous health effects on both poor and developed

nations. This creates a concern about yet another form of freedom from such expression, which I will address in a moment. Some audiences benefit more from an ad-based system than others.

Advertisers discriminate in favour of specific groups, particularly young individuals (who have yet to be "branded") and those with high amounts of discretionary money, as political economists have long noted. Therefore, a show that attracts the biggest audience share may not always be the most responsive to advertiser demand. TV shows have been cancelled despite being the most watched show in their time slot because an advertiser may prefer a smaller, wealthier, younger audience over a larger, poorer, older one. In such a society, youth and wealth take precedence above popularity. In other words, "efficient market behaviour system- atically favours the interests of advertisers, shareholders, and more valued audience segments over those of the broader population, including the poor, the very young and old, and racial and ethnic minorities," as stated by Laura Stein (Stein 2006, p.172). In this approach, advertising restricts free expression by discouraging content creators from creating material for audiences with lower income levels. Or, to put it another way, some people have more votes than others in the market place of speech. Thus, in a purely analytical sense, market-driven and democratic ideas of freedom of speech

Certain types of material are discriminated against by advertising Advertisers seek to purchase viewers who will be open to receiving their commercial messages. This prefers the type of material, be it magazine articles or television programming - that do not compete with or distract from the advertisements that interrupt them. An audience that is angered by the interruption is the result of content that is too fascinating, profound, or serious to be readily interrupted.

As mentioned earlier, many of the worst and most prevalent health issues in the industrialised world are caused by people consuming too much of the foods that are preferred by advertising. In this way, advertising is actually detrimental to your health. Due to this, a new definition of freedom of expression—the freedom from advertising—has emerged. Or, to put it more optimistically, the freedom from restrictions imposed by the logic of advertising on forms of expression. In their consideration of the intervention required to provide a larger variety of (non-stereotypical) pictures of gender in advertising, Eva-Maria Svensson and Maria Edström (2014) investigate a related topic. For instance, citizen organisations have fought to get advertisements (particularly for unhealthy food) removed from children's TV shows. Richard Layard reviews the scientific research on well-being in his book from 2011 and makes the case that limiting the amount of advertising would improve well-being more generally (a number of other scholars, including Kasser, 2002, have connected the rise of consumer culture with a decline in people's well-being).

Even though there are few justifications for marketing junk food to youngsters (apart from corporate profit), these efforts have typically failed, with the exception of a few nations like Sweden. This is because advertising has such a strong hold on creative culture. This shifts the terrain of the struggle for freedom of speech significantly. The ability to encounter communication or culture that has not been restricted or contaminated by advertising's repetitious logic is becoming increasingly desirable since it is now so prevalent. One of the BBC's most important traits is sometimes overlooked in the present UK discussions regarding the organization's future. The BBC, the only British broadcaster, is exempt from designing its content around advertising. It doesn't have to concentrate on the financial repercussions of

upsetting corporate voices, restrict its originality to fit around commercial breaks, or concentrate on the disposable money of its audience, which has a variety of creative and political implications. But probably most significantly, it allows individuals to listen or watch without being interrupted by advertisements they did not intend to see [11], [12].

### CONCLUSION

The most overt political implication of this is that, regardless of the interests of viewers, messages that are in opposition to the pro-corporate, consumerist worldview that most advertising either relies upon or supports are unlikely to win over advertisers. However, there is a drawback to engaging in creative activities. Sports, drama, comedies, news, and documentaries on commercial television all have the enormous aesthetic drawback of being created for commercial breaks. Since the early days of radio, shows have been produced around commercial messaging in mature commercial societies like the US. The prospective writer is reminded that "television shows (are) structured around commercial breaks" in a primer on TV writing in the USA. This can be understood as: Usually with a teaser and tag, the tales for hour-long dramas or action-adventures are structured in four acts. Every act should end with a bang, especially around the halfway point, when viewers are most inclined to switch channels. Bryant, 2001. This responsibility renders the type of continuous action, drama, or mood we associate with high-quality television clearly unattractive and imposes an obstruction to free expression that is frequently disregarded.

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## CHAPTER 8

### KILLING THE GOLDEN GOOSE

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#### **ABSTRACT:**

This chapter makes the case that the practice of fusing editorial and promotional material, or "native advertising," is harmful to both the objectives of the advertisers and the objectivity of journalism. It forces a Hobson's choice between allowing governments to control media content for its veracity, which invites the censorship that freedom of expression ought to forbid, and allowing false and deceptive promotional claims to be incorporated into editorial content without being subject to legal scrutiny. Native advertising helps advertisers increase their reputation, but because it depends on editorial material's continuing distinctiveness, its efficacy will wane over time if readers start to distrust editorial content the same way they do advertising. Native advertising poses a danger to the editorial credibility that advertisers so desperately want to usurp; doing so might make matters worse for everyone.

#### **KEYWORDS:**

Commercial Speech, Credibility of Advertising, Free Speech, Public Relations, Third-Party Technique.

#### **INTRODUCTION**

To win over consumers' cynicism, native advertising disguises advertisements as journalistic material. This chapter makes the case that native advertising is dishonest and threatens to extend advertising's lack of credibility to all material, negating the original intent of advertisers to imitate journalistic content. As consumers learn that journalistic information is heavily infused with promotion, the merging of advertising and editorial content poses a threat to increase their already existing mistrust of all media. In other words, native advertising may, over time, undermine the authority of the material it mimics in its quest of short-term profit [1], [2].

According to the Native Advertising Playbook native advertising aims to "deliver paid ads that are so cohesive with page content, assimilated into the design, and consistent with the platform that the viewer simply feels that they belong".<sup>1</sup> Less euphemistically said, native advertising mimics editorial material to gain from the increased authority of the speaker's perceived objectivity without giving up control of the message. According to Goodman, native advertising is "stealth marketing," which entails blending adverts with content in a way that obscures their position as paid material advertisements. Native advertising, according to critics, undermines journalistic ethics and is dishonest. Defenders contend that mandatory disclosures addresses any deceit and that more regulation is unnecessary [3], [4].

This chapter makes the case that native advertising poses a danger to the institutional press's credibility at a time when its existence is in jeopardy. Ironically, native advertising weakens media credibility to the extent that it affects its own efficacy. Consumers are likely to grow increasingly sceptical of any material if they can't tell what is advertising and what isn't. The

regulation of advertising in general is also hampered by native advertising. It becomes increasingly difficult to support regulatory regimes that subject advertising to more restriction than other forms of expression if it is harder to distinguish between advertising and non-advertising. This is an international issue. Native advertising poses a particularly challenging issue for democratic societies committed to freedom of speech because it is "advertising," which has historically been subject to regulation, particularly for its truth, but it looks like "content," which has not. This is true even though many nations, like Sweden (see Svensson in this volume), have more extensive regulation of advertising.

The finest native advertising, according to the sector, is seen and read as news or journalistic content, with the promotional element given covertly. The Washington Post and the New York Times, as well as digital-only publications like the Huffington Post and Salon, are where it is most frequently found online. Although it can theoretically be identified by disclaimers like "paid post" or "sponsored content," these disclaimers are typically not very noticeable. To find them, you might need to go seeking for them. "The best content marketing [native advertising] seamlessly combines news, promotion, and customer engagement" (Meyer 2014). "[I]t is a beautiful thing to see when it [native advertising] is done with... flair, relevance, and journalistic integrity [5], [6].

The issue is that native advertising can occasionally be too "seamless." This was discovered thanks to a Church of Scientology-sponsored ad in *The Atlantic* (Sebastian 2015). Although it appeared to be an article on Scientology, the advertising was really a sponsored post. Numerous readers, who may not have known the piece was sponsored by the Church, were baffled or angered by its promotional tone and were even more enraged when they noticed that critical comments were being removed (Moss 2013). The Scientology article, according to one commentator, failed because "the Atlantic violated the spirit of native advertising by giving a platform to a controversial institution that didn't jibe with its intellectual tradition." The situation was then made worse by the censorship of some of the critical commentary that flooded the comments thread (*ibid*). This episode serves as an example of how native advertising can both fool readers and taint the integrity of journalism. Legal considerations are also being given to native advertising (Levi 2015). Guidelines for the procedure were just released by the Federal Trade Commission (Barr, 2015).<sup>3</sup> Unfortunately, transparency is the only major focus of these guidelines [7], [8].

### **Independence**

Native advertising is debatable because it compromises journalistic integrity by putting readers at danger of having their content influenced by marketers and other influential parties. Although advertising has always been a source of revenue for newspapers and magazines there used to be a distinction between the news/editorial side and the advertising side of the company. Since there have always been gaps in the separation, this is not a new occurrence. What is novel is that, up until recently, the majority of media at least acknowledged that advertising control of content was unethical from a journalistic standpoint. This isn't a given anymore. The conventional "boundaries between editorial and advertising in journalism newsrooms aren't what they used to be," according to a piece in the *Columbia Journalism Review*. Time, Inc. editors currently answer to business side management".

## DISCUSSION

That would have been a serious violation of the separation ethic in past times.<sup>4</sup> Reliable information sources are essential to a democracy's smooth operation, which is why the ethic of separation was developed. But because of the disruption caused by ad blockers, the Internet, and mergers, newspapers are coming under growing strain. This forces marketers to look for fresh ways to connect with customers. For instance, Michael Meyer describes *The Daily Growl*, a Purina online newsletter, in the *Columbia Journalism Review* piece mentioned above. According to the author, "the Purina operation is, in some ways, closer to a newsroom than journalists would care to admit" (*ibid*). The team's explicit alignment with the interests of the second-largest pet food firm is the most noticeable change, according to the same source (*italics added*). However, it might be said that this distinction significantly affects the content. Native advertising is controversial because of how its personnel behave rather than how they seem to be reporters. For instance, it is doubtful that *The Daily Growl* will publish exposés of Purina's employment policies. Native advertising makes up at least half of the content for many online news providers. Others, like Buzz Feed, assert that significantly more than half of their material is sponsored. In a nutshell, native advertising is pervasive. It was created to overcome the two main issues with advertising—clutter and low believability.

### **Clutter**

Billboards, print commercials, television ads, pop-up and banner ads, point-of-sale displays, celebrity endorsements, and many more forms of advertising are readily identified as such.<sup>5</sup> According to Crawford (2015), "the fields of view that haven't been claimed for commerce are getting fewer and narrower." In fact, there is so much advertising everywhere that frequently referred to as "clutter." Consumers would prefer not to have their favourite content interrupted with advertising, even good advertising, according to Ken Wheaton, a columnist for *Advertising Age*. Ads were often tolerated out of need or because the alternative was more expensive (Wheaton 2015).<sup>6</sup> Consumers' time is wasted by advertisements. So whenever they can, they block them. However, customers are subjected to a cacophony of advertisements where they are unable to block them. Therefore, an advertiser's main objective in that setting is to "break through the clutter." Because native advertising typically resembles journalistic material, it can frequently "survive the gaze of ad-blocking software" (Morrison & Petersen 2015:12). Even yet, advertisers still confront a challenge: would consumers believe the advertising, even if they manage to get past ad-blocking software and get their attention?

### **Credibility and the use of a third party**

Advertising struggles with believability. Advertising is untrustworthy. Because customers believe that advertising is biased, it is not credible. Advertising is the seller's voice, according to Ries & Ries (2002:75). Customers anticipate that an advertiser's incentives to sell will most likely outweigh its motivations to be truthful. In fact, the likelihood that a seller will make exaggerated claims about its product is so well-established that there is a legal principle, known as the "puffing doctrine" in US law and existing in similar forms in many legal systems<sup>8</sup>, that denies a buyer compensation for a seller's false statements on which the buyer relied and by which the buyer was harmed, but which the court concludes no "reasonable person" should believe.

Marketing professionals have been incredibly creative in coming up with ways to get their messages to their target audiences more effectively by engaging in activities and communications that do not signal their status as marketing so overtly (or at all). This is due to the twin problems of consumers' sensory and cognitive overload from too much advertising and the low credibility of advertising.<sup>9</sup> Due to the fact that customers don't recognise this marketing as advertising, it might be more believable. "Stealth marketing" includes a variety of tactics. Stealth marketing includes native advertising. Although "no universally agreed upon of native advertising exists, as was already mentioned, what "most advertisers and publishers aspire" to achieve with native advertising is "deliver paid ads that are so cohesive with the page content, assimilated into the design, and consistent with the platform behaviour that the viewer simply feels that they [the ads] belong" (Native Advertising Playbook 2013:4). This sensation of "belonging" is essential to the practise of public relations and involves what is known as "the third-party technique."

Sending out a press release regarding a client's goods in the hopes that newspapers would write about it is the simplest kind of public relations. The majority of the time, newspaper coverage of the client's press release must be extensive for public relations activities to be successful. But it may also entail making the "news" by holding competitions, giveaways of goods, concerts, or "protests." However, the unifying theme throughout these varied antics and press is gimmicks. If the media doesn't report on the press agent's efforts, they will be for nothing. The 'third party' that makes these marketing initiatives successful is the media. The "Father of Public Relations," Edward Bernays, is frequently credited with developing the third-party strategy. The third-party strategy is hiring a speaker to promote the seller's goods while appearing to be impartial. The publicist is interested in eliminating sales opposition rather than directly attacking it, according to Bernays (1928:77). Al and Laura Ries, who work in public relations, state that "Advertising is taken for what it is - a biased message paid for by a company with a selfish interest in what the consumer consumes" (Ries & Ries 2002:5). The authenticity that only third-party endorsements can provide is essential for starting something from scratch [9], [10].

However, there is a drawback to depending on others to deliver your message: they could not do it accurately or at all. A news outlet's editor could choose not to cover your product launch if she doesn't think it warrants coverage. Even if social media word-of-mouth is positive, you could run into issues if it's packaged in ways that are at odds with or otherwise "off message" from your advertising effort. Even worse, the buzz might not be favourable. If you launch a review website without editorial oversight, some entries can be unfavorable even highly unfavorable. So a third-party campaign where the advertiser has total control over the messaging is great. The public's mistrust of advertising will undoubtedly expand to media in general once it is widely recognised that marketers influence a large portion of the content, negating the usefulness of replicating content.

The communication is seen to be credible because of the third party's apparent independence. If readers discovered that the third party had been paid to publish the news, this credibility advantage would vanish. This makes it clear that disclosures are useless in the fight against potential deception brought on by native advertising. Effective disclosure would expose native advertising as advertising, eliminating the purpose and preventing it from benefiting from the credibility bump that journalistic material receives. Therefore, when advertisers say they support disclosures, they cannot mean what they say. Because they are aware they won't



work, advertisers utilise them. It is risky to believe that any moment in the past was a perfect time to measure our current struggles against. However, it is apparent that there used to be a stronger distinction between promotional and non-promotional information. The prospects for advancement that exist now probably go beyond Bernays' greatest expectations. The chances to market one's goods are so many, so subtle, and so creative that they appear to be virtually endless. With very little, frequently ineffective notification that it is advertising, native advertising gives the chance to have a brand "story" incorporated inside a news article in the pages of a major news organisation, one that may even have been authored by their employees to fit smoothly into their other material. Even close to being too fantastic to be true. Additionally, it can be unreal. As usual, there is a snake in this promotional paradise. The entire point of having advertising appear to be content is to give it the credibility of editorial material. However, in a world where everything is promotion, the worry is that journalism will lose credibility rather than advertising. If that occurs, trying to affiliate oneself with a "trusted publication" won't do anything. The "golden goose" that negative advertising attempts to snatch is produced by journalistic honesty. However, by doing so, it poses a threat to lose all of its credibility, which would be detrimental to both the public and advertising.

In both law and self-regulation, the significance of maintaining a clear separation between editorial and commercial material is still highlighted. The reality, however, is rather different: in reality, the distinction between editorial and commercial material is becoming increasingly hazy. This article discusses how editorial and commercial material are separated under Swedish law and self-regulation. The protection of independent journalists is a crucial component of a democracy. Independent journalism supports free speech, professional and ethical standards, watchdog journalism, and various viewpoints to enable media to offer high-quality material for the public good. It is essential to keep a distinction between editorial and commercial material, and this fundamental tenet is rooted in the constitution's protection of free speech, market regulations, and self-regulatory rules like the ethical standards for media and business. The division can be seen as necessary for the justifications frequently given for protecting free speech, including to advance knowledge or people's interests in autonomy or self-development, as well as to support democratic forms of self-government. By far the most popular justification for free speech within the law is the democratic logic, which is inherent in many research on independent journalism and media. The democratic justification is unquestionably the strongest argument in a Swedish setting.

There are linkages between the justification for free speech and the distinction between editorial and commercial material. Underscoring the democratic right to free speech and its significance in a participatory democracy in the Swedish setting goes hand in hand with less protection for commercial material. The three main Acts that make up Sweden's constitution's free speech provisions each have some distinctive characteristics. First, legislators (by laws) and publishers (through their practises) determine the parameters for free expression, with attorneys (in courts) having a very limited influence. Second, unlike the ECHR, the strategy is technologically particular (Bull 2009:79). The Press Act (TF), as an example, covers anything that is printed (in accordance with a certain definition of what is printed). However, not everything has the same level of protection.

The heart of what is thought to be deserving of protection is not commercial material. The legal and self-regulatory systems demonstrate this assumption in a number of ways. Even

while (in the broader Nordic context) reasons are made to offer commercial material more protection owing to its relevance in a market economy, it is crucial to maintain the separation between editorial and commercial content in these systems (Heide-Jrgensen 2013). International efforts to strengthen the legal protection of commercial speech have been divided into three phases (Heide-Jrgensen, 2013). Commercial speech now virtually enjoys the same First Amendment protection in the United States as political speech, despite the distinction still existing (Piety 2012). Despite the obvious distinction between editorial and commercial material being supported by Swedish legislation and self-regulatory mechanisms, the media landscape reveals a different picture. Commercial and editorial material are muddled. Both the marketing self-regulatory group Reklamombuds-mannen and journalists are worried (Edström 2015). The credibility and dependability of the media and journalism are at risk, and furthermore, the marketers are also at risk, according to the Reklamombudsman [11], [12].

## CONCLUSION

The deliberate and clever manipulation of the organised habits and opinions of the people, according to Bernays (Bernays 1928:37).<sup>12</sup> was necessary for a democracy. He thought that the general public's opinions were more like rubber stamps than they were well-reasoned positions, "rubber stamps inked with advertising slogans, editorials, published scientific data, the trivialities of the tabloids and the platitudes of history, but quite innocent of original thought" (ibid:48). He believed that in order for the democratic experiment of popular power to be successful, it had it's essential for leaders to "mould the people' minds so that they would direct their newly found strength in the proper direction...Everything that is done nowadays that is socially significant must be done with the aid of propaganda. The invisible government's executive branch is propaganda (ibid., pp. 47–48). According to Bernays' concept, the sage "public relations counsel" would carry out this duty (ibid:63). Today, the majority of those public relations professional's work for the largest businesses in the world, entities whose legitimacy as directors in a democratic society is debatable because they do not have voting rights. However, they frequently take on this job. We currently inhabit a world that Bernays contributed to. The development of numerous promotional sectors, including public relations, marketing, and advertising, is one of the most important tales of the 20th century. This explains why *Mad Men* is so successful on television. The story is not just about the development of a globally significant industry; it is also about the formation of a consumer culture, which has roots in American history but is also moving in a new direction as Americans are encouraged to channel many of their political impulses towards consumerism. They were informed that being a consumer was similar to being a citizen, only that it was more immediate and rewarding

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## CHAPTER 9

# UPHOLDING THE DIVISION BETWEEN EDITORIAL AND COMMERCIAL CONTENT IN LEGISLATION AND SELF-REGULATION

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### ABSTRACT:

In both law and self-regulation, the significance of maintaining a clear separation between editorial and commercial material is still highlighted. However, in reality, there is little distinction between journalistic and commercial material because of phenomena like advertorials, content marketing, and native advertising. The separation between editorial and commercial material under Swedish legislation and self-regulation is examined in this article. It concludes that maintaining the distinction is difficult in a time when new business models have emerged that involve closer collaboration between journalism and business, when criticisms of public support for journalism and public service media have risen, and when restrictions, such as those on the amount of broadcast advertising, are relaxed. These difficulties cast doubt on journalism's capacity to function as an impartial regulator of political and economic power.

### KEYWORDS:

Commercial, Content, Editorial, Legislation, Self- Regulation.

### INTRODUCTION

In both law and self-regulation, the significance of maintaining a clear separation between editorial and commercial material is still highlighted. The reality, however, is rather different: in reality, the distinction between editorial and commercial material is becoming increasingly hazy. This article discusses how editorial and commercial material are separated under Swedish law and self-regulation. The protection of independent journalists is a crucial component of a democracy. Independent journalism supports free speech, professional and ethical standards, watchdog journalism, and various viewpoints to enable media to offer high-quality material for the public good. It is essential to keep a distinction between editorial and commercial material, and this fundamental tenet is rooted in the constitution's protection of free speech, market regulations, and self-regulatory rules like the ethical standards for media and business. The division can be seen as necessary for the justifications frequently given for protecting free speech, including to advance knowledge or people's interests in autonomy or self-development, as well as to support democratic forms of self-government. By far the most popular justification for free speech within the law is the democratic logic, which is inherent in many research on independent journalism and media. The democratic justification is unquestionably the strongest argument in a Swedish setting [1], [2].

There are linkages between the justification for free speech and the distinction between editorial and commercial material. Underscoring the democratic right to free speech and its

significance in a participatory democracy in the Swedish setting goes hand in hand with less protection for commercial material. The three main Acts that make up Sweden's constitution's free speech provisions each have some distinctive characteristics. First, legislators (by laws) and publishers (through their practises) determine the parameters for free expression, with attorneys (in courts) having a very limited influence. Second, unlike the ECHR, the strategy is technologically particular. The Press Act (TF), as an example, covers anything that is printed (in accordance with a certain definition of what is printed). However, not everything has the same level of protection. The heart of what is thought to be deserving of protection is not commercial material. The legal and self-regulatory systems demonstrate this assumption in a number of ways. Even while (in the broader Nordic context) reasons are made to offer commercial material more protection owing to its relevance in a market economy, it is crucial to maintain the separation between editorial and commercial content in these systems. International efforts to strengthen the legal protection of commercial speech have been divided into three phases. Commercial speech now virtually enjoys the same First Amendment protection in the United States as political speech, despite the distinction still existing [3], [4].

Despite the obvious distinction between editorial and commercial material being supported by Swedish legislation and self-regulatory mechanisms, the media landscape reveals a different picture. Commercial and editorial material are muddled. Both the marketing self-regulatory group Reklamombuds-mannen and journalists are worried. The credibility and dependability of the media and journalism are in jeopardy, and the Reklamombudsman claims that this also affects marketers. The Swedish legal and self-regulatory system's distinction between editorial and commercial material. The three constitutional Acts (RF, TF, and YGL) safeguard free expression as a basic right and as a communal value. The two latter apply to various forms of media: TF to press and YGL to radio, TV, cinema, audio visual recordings, websites, and blogs with a journalistic purpose (Kenyon, Svensson, and Edström, forthcoming). The first is analogous to the ECHR and incorporates the universal right to freedom of speech.

To ensure the availability of knowledge and the free exchange of ideas. In comparison to other nations, the constitutional protections for expression are "incredibly more detailed" (author's translation, Bull 2006:332). The ability to restrict commercial communication has been used in TF and YGL (regarding advertisements for alcohol, tobacco, and medicine) and in the interpretation of the constitutional limitations when adopting statutory legislation, such as the Marketing Act (2008:486) and the Radio and Television Act (2010:696). RF expressly states that the right to communicate commercially may be restricted. Additional regulations are included in these Acts, such as those pertaining to ads aimed at minors. The Marketing Act's goals are to advance consumer and company interests in product marketing and to stop unfair marketing to consumers and businesses (section 1). In addition to satellite television broadcasts covered by the Radio and Television Act, when the Consumer Ombudsman performs their duties as the competent authority under the Regulation on Consumer Protection Cooperation, and when traders market or seek to acquire products as part of their business activity, the Act also applies [5], [6].

The provisions of the Radio and Television Act, which implements the Audiovisual Media Services Directive of 2013, primarily deal with radio and television transmission. The Act has provisions relating to sponsorship, product placement, and commercial advertising. Both

Acts uphold the difference between commercial and non-commercial communication, and both mandate that audiences be made aware of statements that are advertisements (the Radio and Television Act additionally making reference to the Marketing Act). Section 9 of the existing Marketing Act's identification of advertising clause stipulates that all marketing must be written and presented in a way that makes it obvious that it is a marketing issue. Also clearly identified must be the entity in charge of marketing. This does not, however, apply to representations whose primary objective is to garner interest prior to further representations.

The Radio and Television Act also contains requirements for the identification of advertising. Sponsorship must be disclosed, and advertising must be marked in accordance with certain guidelines. Another intriguing clause that highlights the significance of the distinction between editorial and commercial material is the one that forbids important figures in news radio broadcasts from appearing in advertisements. A clause on identifying advertising can be found in Art. 9 of the self-regulatory Code of Advertising and Marketing Communication Practise from 2011. Whatever their form, marketing messages should be easily identifiable as such, regardless of the platform. When an advertising appears in a publication that also publishes news or editorial content, it should be presented in a way that makes it clear that it is an advertisement and that the advertiser is identified.

## DISCUSSION

Evident Marketing materials shouldn't exaggerate their genuine business intent. Therefore, a message supporting the purchase of a product should not be misrepresented as, for instance, user-generated material, market research, customer surveys, private blogs, or independent reviews. In reality, the market was well aware of the issue of non-identified advertising before any legislative restrictions were put in place. Up until 1971, when the Market Court and the Swedish Consumer Agency were founded, Näringslivets Opinionsnämnd, a self-regulatory body that followed the ICC code of conducts, was in operation. It had developed practise regarding identification. According to Nordell (1999:847), who cited SOU (1993:59) p. 390, this practise had an impact on the ethical standards for advertising that the International Chamber of Commerce (ICC) adopted in 1966. Before the Radio Act at the start of the 1990s and the Marketing Act in 1996, it was developed in business and had long been a part of self-regulatory systems [7], [8].

According to press ethics standards, the distinction between journalistic material and advertising is also considered crucial from an editorial perspective. For the purpose of preserving and enhancing the objectivity and authority of journalism, this division was established. In the process leading up to the present Marketing Act. The idea hasn't become any weaker; on the contrary, stricter penalties included by the most recent Marketing Act have made it more important for marketers to recognise advertising. Additionally, editorial ads are forbidden by the Unfair Commercial Practises Directive. The information above demonstrates that the separation between commercial and journalistic material is supported, at least on paper, by constitutional and general Acts as well as self-regulatory regulations for advertisers and journalists. The parties defending the separation of journalistic material from commercial content. Several actors, including public and self-regulatory authorities, uphold the distinction between editorial and commercial material that is articulated in the aforementioned laws and self-regulatory codes.

In order to prevent the boundaries of freedom of the press and other media from being crossed, the Chancellor of Justice (JK) functions as the only prosecutor in instances involving violations against freedom of the press (TF) and freedom of speech (YGL). Speech that is deemed commercial is often not handled by the JK. The Swedish Market Court, a specialised court that handles matters concerning the Marketing Act, the Competition Act (2008:579), and other consumer and marketing laws, is left to handle it. The Market Court is the highest court of appeal in disputes concerning these statutes. Considering that speech is non-commercial, Market Court is not qualified to hear the case. The JK might need to address this. Cases involving the Radio- and Television Act may also be handled by the Swedish Broadcasting Authority Review Board.

The Swedish Press and Broadcasting Authority includes the Board. Despite its name, the Swedish Advertising Ombudsman (RO), which replaced two earlier organisations established in the late 1970s, is a self-regulatory institution. In response to complaints about advertising, RO evaluates whether commercials adhere to the 2011 ICC Code of Advertising and Marketing Communication Practise. The RO has the authority to send a matter to the RON Jury. There is currently no self-regulatory body, but the Swedish Union of Journalist has its own ethical guidelines, and the Swedish Media Publishers Association has its own checklist. There was a self-regulatory body within the editorial organisations called Textreklamkommittén up until 2005 that monitored violations of the guidelines on the separation between advertising and journalism. The missions of the various bodies overlap to some extent. Both the Market Court and the regular courts will hear cases involving both free speech and advertising brought by JK. The Swedish Advertising Ombudsman, a self-regulatory organisation, and the Market Court both hear cases involving the failure to identify commercial communications.

### **Analyzing the cases**

This section focuses on rulings from courts and self-regulatory organisations in relation to the views expressed by various players about the distinction between editorial and commercial material. This demonstrates how the distinction is frequently highlighted as being crucial, and as a result it suggests that under the Swedish regulatory systems, commercial statements are to some part not protected under the umbrella of free speech [9], [10].

### **JK choices**

The line separating journalistic material from advertising is determined by fundamental free speech principles. JK and the Market Court both hear the case and uphold the boundaries. In a 2009 decision JK states that it is possible to take legal action against print advertising if the message is clearly of a commercial nature, that is, if the communication is (1) carried out as part of a commercial activity, (2) has a commercial goal, and (3) the circumstances are wholly commercial. This is the same claim that has been made for many years, and JK cites past Supreme Court rulings as well as earlier JK rulings to support his position.

### **Marketplace Court**

A similar statement to that made by JK was repeated in the most recent case (MD 2009:15), with the addition that if a message is mixed (contains both commercial content and opinion-forming content or news reporting), the two different parts of the message must be considered in relation to different rules, with the commercial content in relation to the Market Court's

guidelines. This indicates, as stated by the Market Court, that even though the publication's goal is commercial and the content, in and of itself, is commercial, some of the material (with a business actor as a sender) may be protected by the constitutional provisions on free speech.

In a number of instances, the Market Court has considered whether the Marketing Act's need to identify advertising has been met. Between 2000 and 2015, there were 8 decisions regarding the identification of advertising.<sup>6</sup> The most recent one (2009:15) involved a paper-based advertisement that was easily mistaken for editorial content due to its "tabloid format, text style, news articles, headings, ingresses, and body text (...) designed as a newspaper." Additionally, the mistaken perception that the rest of the publication was editorial was enhanced by the fact that several sections had been identified as advertisements. Additionally, the item was sent without an envelope, giving it the appearance of a newspaper. Consequently, the article misrepresented its own nature in with reference to "the typical consumer." In an earlier case (MD 2006:15), the Market Court cited a fundamental marketing law concept (prop. 1994/95:123 p. 165) that states that the customer must be able to recognise an advertising as such "with minimal effort". This supports the case study's result, which Nordell (1999) came to. The Market Court has established clear guidelines for the duty to be transparent about commercial goals and to make it easier for customers to recognise marketing. Additionally, Nordell brings up the issue of journalistic ethics. The Marketing Act's need to disclose advertising includes a press ethics component, which means it indirectly serves to preserve the editorial or journalistic content guaranteed by the constitution's free speech protections.

### **Scandinavian Broadcasting Authority**

The Swedish Broadcasting Authority's cases appear to support the requirement to identify a commercial broadcast as advertising. Most of the time, it is determined that the alleged broadcaster violated the rules. In two recent incidents, a radio programme was found in violation of Chapter 15, section 1 of the Radio and Television Act for failing to adequately identify a commercial in a programme (2014-10-27 dnr: 14/00471). Every commercial broadcast must begin with and terminate with a particular notification. Chapter 8 section 5 of the Radio and Television Act, which requires this indication, was deemed to have been broken by the on-demand television broadcaster Aftonbladet (2012-10-29 dnr: 12/00). Absolutely no hint was given. The results of these cases support the claims made in earlier instances (259/06, 850/05, 1336/04, 780/04, and 268)<sup>7</sup> that it is required to identify a commercial broadcast as advertising, a point made in this volume by Fredrik Stiernstedt and Maria Edström as well.

### **The Ombudsman for Swedish Advertising**

There are 30 judgements pertaining to ICC article 9 on identification that may be searched for from 2009 to the present.<sup>8</sup> Only six of these involved acquittals, implying that the majority were viewed as violations of article 9. The most recent ruling, on June 9, 2015, states that advertising must be simple to recognise as such. The presentation of the commercial must make it clear that it is advertising if it is appearing in a news or editorial-heavy medium. The test is designed to simulate how the typical target customer would likely understand the advertisement. Even though it featured information about being an advertising, the in-question advertisement (which has been tested and upheld previously) was constructed in a way that makes one think of an editorial. RON claims that the material is not sufficiently



clear and that it is not immediately obvious that it is an advertising. The choice was accepted by everybody [11], [12].

## CONCLUSION

The aforementioned instances demonstrate how crucial it is for both journalists and marketers to adhere to legal and self-regulatory guidelines that clearly define advertising and maintain the distinction between editorial and commercial material. Nothing suggests the split is any less relevant than it was in the past. On the contrary, it appears that the significance of maintaining the divide has increased. To give one example, it was stated in a proposal to change the Radio and Television Act that "the editorial independence of the broadcasters shall be assured when sponsoring and product placement are used". However, as Nordell notes, there is a risk that blurring the lines will attract some businesses. As such, despite the efforts of both journalists and marketers to self-regulate, it seems prudent to entrust the judicial system and other authorities with the responsibility of upholding the requirement for marketing transparency. This is critical for journalism, to say the least.

All of this makes it simple to draw the conclusion that the distinction between editorial and commercial material has been established through time and that there does not appear to be an issue with either self-regulation or law. In other words, blurring the lines is not permitted in formal documents. The media and the advertising sector do appear to utilise a variety of line blurring techniques often, but (Lu 2014; see also Fredrik Stiernstedt and Maria Edström in this book). When it comes to distinguishing and designating particular content as editorial or commercial, the regulations are straightforward. But what about branded content—editorial material created at the request of a commercial actor? What about contemporary developments like partner studios, sponsored programming, product placement, and reliant journalism? What about audience transparency in relation to these types of content? If it is impossible to even recognise that editorial material and commercial content exist simultaneously and are muddled, what options are there for maintaining the separation between the two? What strength do the judicial and self-regulatory systems have to maintain the separation between journalism and advertising, to maintain it, when new commercial models of cooperation between journalism and business emerge, when criticisms of public support for journalism, such as press subsidies and public service, increase, and when activities like sponsoring, product placement, and time limits for commercials in broadcasting are relaxed in legislation.

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## CHAPTER 10

### BLURRING THE BOUNDARIES IN PRACTICE

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#### **ABSTRACT:**

The future of media and advertising is frequently seen as being in native advertising. It is believed to not only result in better, more successful advertising but also to contribute to the resolution of the present financial problem facing journalism. Both proponents and detractors are confident in its future popularity since the switch to native is allegedly simple and painless. This chapter uses Sweden as an example to illustrate how such explanations might be nuanced. For those who want to "go native" or in other ways maximise the effect of advertising upon journalistic content, there are at least three key problems, or barriers: economic, ideological/organizational, and regulatory. When analysed, they suggest some possible courses of action, such as targeted protection of specific media content, such as news, and increased public support for a structurally divided media system. For example, if commercial media are no longer able to maintain a "wall" within their own businesses, the "wall" may instead be present throughout the entire media system.

#### **KEYWORDS:**

Advertising, Blurring, Boundaries, Branded, Sponsored.

#### **INTRODUCTION**

Current buzzwords in the media and advertising sectors include native advertising, advertorials, content marketing, sponsored content, product placement, branded content, and related ideas. They refer to methods through which commercials imitate editorial material and are created to appear as such. I'll refer to all of these tactics as "native advertising" moving forward. Native advertising is not a new phenomenon per se; since the early origins of modern media, the line separating commercial and editorial content has been challenged and hazy (Murray 2013). However, it may be argued that recent technological and economic developments have prompted fresh discussions about where to draw the boundary between editorial and commercial content. The Internet "does not alleviate the tensions between commercialism and journalism; it magnifies them," according to Robert McChesney. Online native advertising is thriving, particularly in online journalism, although it is present across all platforms and media types [1], [2].

Native advertising is marketed by its proponents as a serious enterprise. They claim that the goal is not to deceive listeners into believing that commercial communications are reliable news reports or other types of communication. Instead, they advocate for native advertising as having a variety of advantages, including being more engaging and less obtrusive and providing clients with greater value (Mathiasen 2015). Native advertising is seen as an additional means of bypassing ad-blocking software. On the other hand, detractors, like Tamara Piety in this volume, point out - and I tend to agree - that such a discourse is nothing more than the whitewashing of a rather dubious activity. This activity uses the credibility of non-commercial messages (such as journalism) to promote goods, services, and ideas on

behalf of paying advertisers and to confuse consumers. Additionally, native advertising poses a serious threat to democracy, according to Nick Couldry and Joseph Turow, as it helps to create a media landscape that is "cleared of one basic ingredient of democratic life: the reliable and regular exchange of common ideas, facts, and reference points about matters of common concern [3], [4]."

Native advertising is frequently regarded as the future in the media and advertising sectors, not least because it is thought to play a role in addressing the present economic crisis in the media, and more especially in journalism. Furthermore, it appears to be the media and journalism's inevitable destiny for many of its commenters. Both proponents and detractors of native advertising are confident in the medium's future success since, according to Matteo and Dal Zotto (2015), the move to "native" is simple and straightforward in practise.

I'd want to nuance such tales in this chapter. For individuals who want to "go native" or who in other ways want to maximise the effect of advertising upon journalistic content, there are at least three major problems, or hurdles. Economic, ideological/organizational, and legal/regulatory impediments are present. The Swedish media system serves as the context for the claims I make here. In the first two sections of the chapter, I provide some instances from my own ethnographic fieldwork at a Swedish media firm.

### **Economic Obstacles**

The media industries are, of course, strongly motivated economically to accept, promote, and create material that blurs the line between editorial and commercial purposes. However, this tendency is also being resisted by structural and economic factors. Texts and audiences are at least two of the commodities that media enterprises depend on. Users purchase texts, whereas advertisers purchase audiences. Both of these commodities are odd and riddled with paradoxes: they are material and elusive, hard to produce and confine. Additionally, media texts are "public." products' (Rowley, Tollison, & Tullock 1988/2013) in addition to being heavily reliant on the varying tastes of the general public. Because of these structural factors, the media and journalism are high-risk businesses with high costs for product creation and few options for improving production efficiency (Hesmondhalgh 2007).

Media sectors have consequently devised a variety of techniques to manage these risks. One such technique is the 'creative liberty' granted to media producers in order to preserve qualities like dependability and uniqueness in media texts - without which these writings wouldn't be read by audiences, losing their worth as products on the market (Banks 2010, Holt & Lapenta 2010, Ryan 1992). Of course, having creative autonomy does not exclude engaging in activities like native advertising. It does, however, imply that native advertising must be carried out in a manner that is at least somewhat acceptable to journalists, editors, and other media professionals (see below for a more in-depth discussion on these types of ideological and organisational constraints). Additionally, and perhaps more crucially, the commonality of media messages necessitates the creation of native ads that in some manner uphold ideals that appeal to consumers, such as the legitimacy of journalism or the uniqueness of creative expression in entertainment. To what Couldry and Turow have dubbed a "seemingly unstoppable momentum" of native advertising, public trust is one formidable hurdle. The broad use of native advertising, as Piety has noted in this book, may destroy this trust and the credibility of noncommercial communications, which might be detrimental to business [5], [6].

In my personal study (Stiernstedt 2013), I have seen that native advertising practises are publicly criticised and rejected inside the business itself, not only due to ethical or professional standards, but also primarily with reference to regulation and legislation, as well as with just selfish economic interests. For instance, a senior manager of a radio firm who served as one of my informants said, "If we have to push products or let companies write our manuscripts, it won't be funny or creative, and if it's not funny or creative, we'll eventually run out of listeners." Interestingly, Crystal Abidin and Mart Ots have found a similar logic in modern fashion blogging, where one might expect the distinctions between commercial and journalistic material would be, to put it mildly, minimal. And then we don't have anything to sell. However, based on financial considerations, the fashion bloggers Abidin and Ots studied have established a set of conventions and regulations for how to keep a "wall" in their practises.

## DISCUSSION

The "wall" in media creation has real justifications, as I mentioned above, and is ultimately a result of the commodity nature of media goods. The distinction between editorial and commercial material is a cultural and intellectual construct that operates via rituals and socialisation at the workplace. The line separating commercial material from editorial content has never, in the strictest sense of the phrase, been a wall. On the contrary, it has always been a fluid and permeable concept that is subject to perpetual change and negotiation between opposing interests and organisations. However, according to Mark Codrington (2015:1), "one of the foremost professional markers of journalism, a principle that is reinforced most strongly in the central sites of its socialization," is the distinction between the editorial and economic duties of media institutions. This barrier has a specific significance within journalism and has long been a crucial component of journalists' professional identities. The border may be found in most media and cultural industries and does not, however, only exist in journalism [7], [8].

Organisational issues have a big role in how editorial and business tasks are separated. Within media companies, there has frequently been a clear and strictly enforced border between producers, journalists, and content suppliers from advertising, sales, and marketing. Physical (e.g., a matter of location), structural (occurring through practises and routines), mental (i.e., being in employees' minds regarding who they are and what they do), cultural (relying on shared beliefs and cultural expression, such as through different clothing), and ideological (i.e., providing explanations for actions and outcomes) divides within organisations exist. There are consequently a variety of organisational issues when a media firm wishes to deploy native advertising or wants to blur the lines between content and advertising in various ways.

I conducted ethnographic fieldwork at a Swedish media firm between 2006 and 2010 when it was undergoing a significant organisational change. The corporation wanted to integrate the sales, marketing, editorial, and management aspects of the business by "tearing down walls." However, attaining this aim was extremely challenging. Large organisational innovations like the unification of sales departments were ultimately undone. New divisions of the business, such the "Creative Sales" department, which had been established with the goal of producing native content, were, at least in part, failures. The managers who oversaw the rearrangement had to launch major efforts to persuade workers of the advantages of "working together." Many of these managers are no longer employed by the business. Widespread dissidence

existed. Additionally, the organisation I examined primarily created and disseminated entertainment radio and television; it was not a news organisation. In this book, Maria Edström highlights several strategies used by business owners and managers to avoid both legal obligations and similar problems, such as hiring outside production firms. However, the adoption of native advertising is far from being as simple and natural as many of the advocates and opponents of native advertising indicate because of notions of "the wall" and its associated organisational reality. Different media systems and media cultures inherently differ from one another in this regard. In a heavily for-profit media environment like that found in North and South America, some of these wall-building philosophies may be weaker, whereas Scandinavian nations with a long history of public service, at least in broadcast media, may be an exception in this regard. It is also conceivable to envision changes throughout time. My fieldwork came to a close in 2010, and since then, things may have altered [9], [10].

### **Regulatory restrictions**

The legal and regulatory environment is a third obstacle that native advertising proponents must get past. The Swedish government is quite explicit about the difference between commercial and non-commercial messages in the media, as Eva-Maria Svensson notes in this book. Politicians and legislators are mostly understanding and supporting the need for a "wall" between editorial and commercial divisions in media organisations. The notion of democracy-driven free speech is prevalent, and in many ways, Swedish policy is based on arguments that are similar to the professional ideologies of journalists and media professionals: that public discourse and media-based communication are particularly important for democratic society as a whole and as such require some kind of special protection.

Media-specific laws maintain the separation between commercial and non-commercial material on radio and television. First off, the fact that Sweden has strong public service radio and television, which are non-commercial and supported by licence fees, speaks volumes about the country's political aspirations and the perceived need to limit and develop alternatives to commercially supported communication. The Swedish Press and Broadcasting Authority issues licences to Swedish public service providers, much like all terrestrial radio and television in Sweden. The behaviour of the broadcasting businesses must also be audited and reviewed by the Broadcasting Authority. Public service firms are subject to stringent regulations governing commercial material, which forbid any sort of "unfair favoritism" or product placement.

All material is governed by the Radio and Television Act in addition to the permissions and licenses granted by the Broadcasting Authority. A programming that is not a commercial must not "unduly favour commercial interests," according to Section 5 of this law. This law categorically forbids accepting cash or goods in exchange for endorsing items, promoting them, or acting in any other way that would allow business interests to profit from the information in a broadcast. For instance, broadcasters must be cautious to avoid describing the reward (product) more than once, even in game shows and other situations where awards are given to competitors. Even then, they must use purely formal, non-evaluative language. However, since the establishment of the Swedish Broadcasting Commission, the court in these matters, this legislation has only led to 82 convictions convicting broadcasters (17 public service and 65 commercial stations). This outcome may confirm the fact that the

commission typically only responds to public notifications. In other words, no action is taken as long as no one from the viewing or listening public reports the programming.

Print and digital media are covered under the Marketing Act in addition to the Broadcasting Act. The Marketing Act primarily examines whether marketing is too aggressive or dishonest. However, the marketing statute still explicitly states: "All marketing should be planned and presented such that it is evident that it is an issue of marketing. Publishers are legally permitted to publish native advertising or other more or less misleading kinds of marketing. Additionally, it needs to be made clear who is in charge of marketing. A seamless transition to native advertising is hampered by Swedish legislation, government regulation, and self-regulatory efforts. The press has historically seen very little government interference, relying instead on self-regulation that is widely regarded as more sophisticated and stronger than that which is typical in English-speaking nations. The moral behaviour of Swedish print journalism, including that on digital platforms and social network media, is governed by the Swedish Press Council and its Press Ombudsman. Their code of ethics, however, makes no mention of the distinction between editorial and commercial material. For its members, the Swedish Union of Journalists has created a code of conduct. Although the focus of this code is on the direct and indirect pressure that commercial businesses exert on specific journalists, it also urges prudence when writing about or reporting on products, services, and brands. The trade organisation for Swedish newspapers, the Swedish Media Publishers' organisation, historically provided funding for a self-regulatory body called the "committee against advertising in editorial material" to address native advertising-related concerns. It was discontinued in 2005 on the grounds that it was "anachronistic."

### **Editorial content is quite important**

The larger area of public relations and advertising also includes attempts at self-regulation in the advertising industry. An industry-founded self-regulatory body is the Swedish Advertising Ombudsman. It determines whether businesses adhere to the moral standards established by the ICC (International Chamber of Commerce) based on public complaints. Both traditional media (television, radio, print) and so-called interactive advertising on digital platforms are governed by the ICC code's rules. It has various parts on advertising's identification, the advertiser's identity, and clarity and legibility. The Interactive Advertising Bureau, a global industry organization - which all recognised media organisations and corporations in Sweden are a part of - has released ethical rules for native advertising. Again, the key issues are those of clarity and legibility: "It is a fundamental premise that promotional endeavours must look as such. Advertising must be clearly identified as such and cannot be written in a way that makes it appear to be editorial writing.

### **Last Thoughts**

The line between commercial and journalistic material is frequently blurred in media output, and native advertising and advertiser-funded content are both common. Even though it may be more common in modern media, especially digital media, than it has ever been previously, this condition is not really new.

The economic, organisational, ideological, political, and regulatory factors, among others, all seek to thwart its progress. The shift to native advertising is not as easy as both detractors and supporters occasionally make it appear. Dissidents abound in the market, organisational structures frequently work against native advertising, and the legal and regulatory framework

is obviously onerous. But right now, it's difficult to police the rules and regulations that are already in place. Des Freedman (2008) points out that non-intervention may also be a type of political activity because it is an intervention. Perhaps improved compliance and more interventions are what are required rather than new standards or laws, not the least of which is to assist the people and organisational structures that are attempting to protect "the wall." Maintaining the distinction between editorial judgements and economic interests may have strong public support. Many people are interested in and concerned about the inherent dishonesty and deceit of native advertising, which occasionally takes a political turn, as seen, for instance, in media reform campaigns.

However, given the current state of the economy, is it realistic to expect the commercial and editorial content boundaries to be maintained by the existing commercial media industries? As Couldry and Turow (2014) noted, we are still just a few years into this transformation. Perhaps some of the beliefs, organisational structures, routines, and self-control that currently serve as barriers to native advertising will wither and vanish? An unwelcome level of government surveillance and control may be necessary in order to be able to intervene against native advertising practises, and more regulation in this area and a greater number of interventions could also have the unintended consequence of working against the freedom and independence of the media. Digital media has seen the most growth in native advertising, and the sheer number of these platforms, together with the fact that they are sometimes owned and run from overseas, makes it even more difficult for appropriate authorities to make meaningful interventions. So how should we proceed?

One strategy would be to restrict native advertising prohibitions to specific media types. News reporting already has more protection against commercial influence than other kinds of material under the Swedish Radio and Television Act. In other words, the lawmaker has already made the decision to distinguish between speech types. Furthering this type of protection might pave the way for future political and regulatory initiatives involving native advertising. For instance, some media material may have higher protection, and the government would be given more authority to step in during news and factual programming, while other media content might be granted more latitude in this regard. This would most likely demand greater public involvement in both printed and digital media, and may thus be a risky path to take given the potential harm to other crucial principles like press freedom. Another potential kind of intervention is the development of new services for market correction, which would likely be more effective but also more politically challenging to implement. A "wall" may stretch across the whole media system and be sustained by government regulations if commercial media is no longer able to maintain it inside their own organizations [11], [12].

## CONCLUSION

The public service concept might then be developed and imported into digital platforms and possibly even into more conventional media, including newspapers and magazines. This might be accomplished in a number of ways, including the creation of new institutions and the repositioning of existing institutions, particularly in the digital sphere, public service funds from which all media businesses could apply for grants for public service products. The European Union would have a significant role to play in this development, which would likely need a combination of national and international measures involving both policy and the actual construction of new public service organizations. This path may currently be too



politically challenging to take since the present prevalent tone throughout Europe has the opposite intent: to fight back against and delimit existing public service organizations.

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## CHAPTER 11

### AUDIENCE ADVERTISING FATIGUE AND NEW ALLIANCE TO FATIGUE CONTENT IN BROADCASTING

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#### **ABSTRACT:**

The European Commission strengthened the rules governing inappropriate advertising and product placement in television when it updated the EU Audiovisual Media Service Directive in 2010. In conclusion, if broadcasters' profit from product placement, they are now required to disclose it to viewers. However, employing production firms, media brokers, and agencies is a means to get past the rules. This chapter examines a few instances from Swedish commercial broadcaster TV4 where questions have been raised about inappropriate promotion of commercial interests and product placement. Other forms of integrated material on Swedish public television are also discussed. Currently, brand exposure to financial media content is employed with or without the audience's agreement. These market-driven adjustments are placed within the framework of the audience's growing ad weariness.

#### **KEYWORDS:**

Advertising, Alliance, Audience, Content, Fatigue.

#### **INTRODUCTION**

There are many instances of commercial messaging incorporated into journalistic content, particularly when one considers the global media entertainment sector and social media. Product placement is evident in practically all entertainment enterprises, as indicated by past study, but additional comparison studies are required to properly comprehend the effects of these practises (Chan 2012). At a time when advertising and users are shunning conventional media, media businesses are experimenting new methods of supporting content. TV broadcasters play a significant role in this process. New types of content cooperation that put the audience's confidence and the law in jeopardy are being produced as a result of that process. In the context of Sweden, this chapter looks at historical and contemporary aspects of broadcast advertising as well as viewer weariness [1], [2].

Harmonising television advertising laws across the EU is one of the goals of the EU Audiovisual Media Services Directive (2010), which aims to enhance the funding of content. The Directive allows for 12 minutes of advertising each hour, additional scheduling flexibility, and expanded opportunities for product placement and sponsorship. The Directive's stated goal with relation to ads is that advertising should be obvious so that viewers can tell editorial from commercial material. The majority of journalistic codes of ethics, including the Swedish code, which also emphasises editorial independence from commercial interests (Code of Ethics 2010), reflect this general viewpoint, as do national laws and industry codes of ethics like the International Chamber of Commerce Code [3], [4]. However, there are regional variations in how broadcasters comply with the new regulations and how governments interpret the law. For instance, when there are product placements in

programmes aired from Great Britain, a "P" is displayed on the screen, although under the Swedish Radio and Television Act (2010:696), no marking is necessary while the programme is airing. Instead, product placement in programmes is only permitted if it is explicitly disclosed before, after, and during commercial breaks (Chapter 6:4). This chapter will demonstrate how Swedish advertisers have opted against using product placement in favour of exploring alternative ways to work with broadcasters. The Swedish government put out a proposal in 2015 to tighten the Radio and Television Act in order to protect editorial independence, which can be seen as an objection to new ways of fusing editorial and commercial material.

The Radio & Television Act was revised in 2016 to add a new section declaring that a program's sponsorship shouldn't compromise editorial independence. The five public service broadcasting networks account for 34% of all television viewership in Sweden, with local performers accounting for 80% of the audience. With 17 channels, some of which are part of the terrestrial network (TV 4 Group), commercial Bonnier is nearly as powerful (30% audience share). The Stenbeck family, which owns numerous channels within MTG, Modern Times Group, is the third-largest actor (17% audience share). Despite the audience's growing apathy towards television ads, commercial television is still immensely profitable in Sweden. The TV business has claimed record levels of advertising income for five years running. Additionally, as compared to a few decades ago, the newspaper advertising industry has significantly declined (Ohlsson 2015). The Nordic Television market as a whole shows a similar pattern with 18.0% of the total advertising market; the largest market remained the daily press with 25% (IRM 2014). Television's share of the total advertising market in Sweden increased from 15.4% in 2008 to a record-high of 18.9% in 2013 [5], [6].

### **Audience Drowsiness**

Audience attitudes have a significant impact on the revenue potential of television advertising as well as their success. It has been crucial for broadcasters to maximize without losing the patience and confidence of the audience, advertising income. Both the concept of ad avoidance and strategies for preventing them are often explored (Callius 2008; Callius 2015; Scherben 2004; Johnson 2013). The Swedish television business and government have struggled with regulations governing the placement and number of ads despite the country's short history of television advertising (25 years). The Swedish law at initially was rather tight, only allowing 8 minutes of commercial time each hour, and only in between programmes. The national statute currently permits 12 minutes of advertising per hour and commercial breaks inside programmes, having been changed to comply with the EU rule. However, it doesn't appear that the audience found these improvements to be satisfactory.

The Swedish SOM-institute has been measuring consumer attitudes towards television advertising annually since 1992 as part of their National SOM survey. Within the University of Gothenburg, the institution conducts independent survey research and examines people's opinions on the media, politics, and public services. Figure 1 shows that at first, more than a third of the public had a very or somewhat favourable attitude towards television advertisements and that only a small minority had a distinctly negative opinion towards them. The very negative and moderately negative groups have increasingly dominated society throughout time. Younger generations in Sweden tend to have more favourable attitudes towards commercial material, a trend that appears to be holding true today (Grusell 2008), but negative sentiments still predominate among the study's youngest generations (those born

in the 1990s). Every liberalisation and expansion in television advertising was followed by a rise in audience hostility. The shifts in public opinion about TV commercials may be correlated to the shifts in national and EU legislation on television advertisements. The way people feel about TV ads is simply one sign of audience weariness. Other signs include the employment of online Influencers to promote items (see Abidin & Ots in this book), the rise of native adverts, and the creation of ad-blockers for web content.

## DISCUSSION

The Swedish Broadcasting Commission, a division of the Swedish Press and Broadcasting Authority, is responsible for enforcing laws under the Swedish Radio and Television Act. The Swedish Broadcasting Commission considers freedom of speech while making judgements. The Commission oversees programmes that have already been broadcast, and it has a responsibility to ensure that the laws and broadcasting licences' rules governing content are respected. At first, it appeared that Swedish marketers and commercial broadcasters were unsure on how to handle the new audio-visual regulations. Few businesses chose to take use of product placement opportunities in the manner that the Swedish Radio and Television Act required. The fact that, six years after the new legislation, there have only been 11 complaints to the Swedish Broadcasting Commission (2010-2015) is a sign of this hesitation. The Commission made a judgement on seven of them, while the remaining ones were rejected. Only two of those seven cases have been determined to involve product placement: a training programme called *Lust, svett och trår* [Lust, Sweat and Tears] on 24UNT received complaints about not having enough information on product placement; and the placing of a hot dog stand on a remote island in the entertainment programme *Robinson* [Survivor] on TV4 received an unfavorable decision [7], [8].

Instead, additional testing has been done on other areas of the law. Programmes are prohibited from 1) promoting the purchase or rental of products or services, or include aspects that promote sales, or 2) improperly promoting an item or service, per the Swedish Radio and Television Act. Initially, the new legislation was challenged multiple times, but after that, the number of cases that resulted in negative verdicts decreased to 13 to 18 every year. Adverse decisions on commercial messaging are frequently made in support of inappropriate promotion and sponsorship.

The few instances when broadcasters have received adverse rulings may be a sign that everything is in order, the laws are clear, and they are adhered to. However, the dynamic between a broadcaster and an advertiser has evolved, and there seem to be more and more inventive methods to incorporate commercial messaging. Additionally, there is room in the law for extra funding from marketers. Product placement is defined as occurring in Swedish law if the broadcaster has profited financially from it however production firms and other parties are not specifically included. As a result, although it may be possible to generate television material that is subject to accusations about inappropriate marketing, it may be challenging to determine whether the promotion was intended or not and whether the broadcaster or the production business benefited financially from it.

Here are some pertinent details concerning recent complaints-related instances improper promotion - sponsorship and paying guests. The commercial broadcaster TV4 made the decision to test a novel idea by allowing advertising to pay to appear as experts on the television programme *Förkväll* [Before Evening]. However, it was attacked by other media

(Svahn 2009) and the programme got several complaints. The specific relationship with experts buying their way into the programme was not examined by the law. Since the TV studio background was wallpaper with a pattern resembling a company logo and the expert speaking in the studio was an employee of the same company (Agria Djurförsäkring), the Swedish Broadcasting Commission rendered an unfavorable decision against TV4 for improper sponsorship. Due to poor viewership, the programme was cancelled in 2011 product placement authorised.

TV4 introduced the comedy-drama series *Solsidan* [the Sunny Side] in 2010, and it swiftly rose to the top of their ratings. In terms of product placement, *Solsidan* is regarded as one of the best examples (Becker & Wlgren 2014). But it has never had a product placement decision go against it. The programme has drawn criticism for showing off things, but the Swedish Broadcasting Commission has found no justification for negative rulings given the program's setting—a fancy suburb where the protagonists have plenty of technology and products. The broadcaster TV4 also used the justification that the programme was created by a production firm to allay adverse objections [9], [10].

### **Incorrect Promotion**

The growth of outside production businesses supplying programming to broadcasters looks to be an effort to get around the law. Because one episode of *Kust och hav* [Coast and Sea] on TV4 exclusively concentrated on one shipping firm and the debut of their new cruise ship, there were concerns that the programme was improperly promoting commercial interests. It was never made clear whether or to what extent TV4 or the production business gained from their partnership with the shipping industry. The broadcasting firm insisted that it exclusively depended on editorial judgements, and the Broadcasting Commission was never able to determine if advertising had any impact on the editorial content. The Swedish Broadcasting Commission determined that the programme in question featured sales promotion and that it was an improper promotion of the shipping firm (Decision 13/00800). As a result, the SBC demanded a punishment of 150,000 SEK (16 100 €) from the Administrative Court.

Advertisers are aware of audience tendencies to try to skip ads as well as advertising weariness. Because of this, "brand exposure" has emerged as a new industry. While brand exposure and sponsorship are comparable, the latter does not simply include producers, advertisers, and broadcasters. The main participant is media agencies, which offer advertising contracts that provide their products visibility in the programme and the potential for mutual engagement on other platforms and business domains, including marketing with the TV brand on their product. Some marketers are also TV programme sponsors, whereas others simply have a sponsorship deal with the production firm that is hidden from the viewers.

All parties consulted for a student paper regarding the TV4 programme *Hela Sverige bakar* (All of Sweden Bakes) concurred that brand exposure is preferable to product placement. TV4 earns more money, product exposure is targeted, media agencies take a bigger chunk of the overall advertising market, and viewers are spared direct marketing messages. However, this also implies that the audience is unable to distinguish between editorial and commercial choices or understand the motivations behind the exposure and discussion of particular items (Grothén & Robertsson 2015:50). Additionally, no complaints against the programme *Hela Sverige bakar* have been sent to the Swedish Broadcasting Commission. This may be seen as the audience accepting brand exposure or as the result of them being unaware of it.

## **Complaints about Public Service Television and Solutions**

Despite the absence of advertising, Swedish public service television networks are nonetheless subject to fines for inappropriate sponsorship, promotion, and product placement. Incorrect marketing in public service has been the subject of multiple complaints and bad rulings by the Swedish Broadcasting Commission; in fact, public service Swedish Television (SVT) has received more unfavorable decisions than commercial TV4. This may mean that, compared to commercial broadcasters, public service broadcasters find it harder to maintain the line between editorial and commercial programming.

However, it can also be a reflection of the audience's demands for government agencies to uphold increasing levels of independence. Nine of the 17 adverse criticisms of SVT Centre on its sporting events and athletes. One complaint from 2012 relates to a tale about a well-known Swedish golfer. Every frame of the edited interview had logos on the golfer's cap and attire, which was deemed to be inappropriate marketing. The situation remained unchanged despite the broadcaster's claim that the reporter had been attempting to get the golfer to remove his cap (Decision 12/00050). Following that choice, public television began to cover any worn-by-people logos more frequently. Three years later, in 2015, the focus of the entertainment programme *Flickvän p försök* [Trial girlfriend] was another sports celebrity, this time a skier. Not all logos were blurry; some were. This time, the Swedish Broadcasting Commission demanded a 100 000 SEK (10 770) fine in addition to finding the marketing to be inappropriate at the Administrative Court) fine.

This chapter looked at a few instances when viewers in Swedish broadcasting protested about commercial messages and the law was ultimately deemed to apply in certain situations. The statute targets the broadcasters, and the Broadcasting Commission seldom rules against them if they have not benefited financially from a partnership. At the same time, it seems like more business revolves around the production firms. The objective of the law and practise appear to be at odds with one another. The broadcaster might assert that it has not profited from the product placement even when it is a well-known circumstance (such as *Solsidan*). Given that there have only been two Unfavorable rulings made in Sweden between 2010 and 2015 on product placement raise the possibility that there is no product placement occurring, that it is seamless in its visual presentation, or that the legal safeguards are ineffective.

Even if brand exposure is displayed on screen (such as *Hela Sverige bakar*), it might be considered a sort of commercial message that the Swedish Broadcasting Commission has not yet examined. In order to boost revenue, the broadcasters have created new forms of advertiser cooperation. As middlemen between producers, advertising, and broadcasters, media agencies appear to play a significant influence. A new kind of funding that seems to get past the law is collaboration on brand exposure. The public and the government don't seem to be aware of or troubled by this novel advertising message. At least no complaints regarding the above stated programme have been made to the Swedish Broadcasting Commission. How well do advertisers and broadcasters understand their audience and how far can they go these partnerships? There are several alternative outcomes. At first, audiences could be open to these kinds of partnership. On the other side, if they recognise the power of advertisers, audiences that are already weary of advertising could be susceptible to these sorts of partnership. It appears that in order to continue earning money from advertising without alienating viewers, the television business will require more sophisticated methods.

When thinking on the evolution of blending editorial and commercial material, the issues of genre and trust should also be taken into account. Television programmes that are a component of the broadcasters' entertainment programming are used as examples in this essay. It may be more problematic if these new financing methods, which muddle the distinction between editorial and commercial content, start to appear in news and current affairs categories as well. When viewers are unable to determine who is behind articles, there is fear that confidence in news may decline. There are now various initiatives underway in Sweden to discover novel methods to finance news. A daily newspaper has a business reporter who participates in sponsored television appearances from a car manufacturer, and the largest tabloid paid for a US correspondent through a sponsor agreement. We still don't know how this will work out monetarily or in terms of audience confidence.

Although the EU's 2010 Audiovisual Media Service Directive aimed to standardise advertising regulations, it is unclear if this method of financing television programming has been made easier or if the distinction between editorial and commercial material has been maintained. Researchers highlighted some concerns regarding commercial messaging and mixed material on digital platforms during the public consultation in 2015 on further modifying the EU directive, but there was no clear consensus on the topic. One suggestion made by Sally Broughton Micova in her consultation comments is that "the amount of advertising embedded in the on-demand catch-up services of commercial television channels is something that could be considered in the future, perhaps through monitoring and periodic review for policy action." (Public consultation for AVMSD 2015). The outcomes of the consultation will be used to inform the impact assessment that will be included with the 2016 legislative proposal, as well as the evaluation of the AVMSD.

There are dangers when experimenting with new content finance methods. Broadcasters must be conscious of the risk of losing the audience's trust as well as the potential for generating moral conundrums for the journalists involved when blending commercial messaging with editorial material in novel ways (Edström 2015, Edström & Svensson 2016). On the other hand, it could be advantageous, at least initially, to include commercial messages into editorial content in a way that the audience does not notice. Long-term consequences, though, might potentially harm the broadcaster's connection with its viewers once they discover about these kinds of cooperation. In Sweden, a new clause added to the Radio and Television Act in 2016 makes it clear that sponsors shouldn't have any say on editorial choices. It is unknown how this regulation will be put into practise. The law might be expanded to encompass production businesses who provide content to broadcasters as a method to maintain the separation between editorial and commercial programming. The public and the broadcasters should be informed that if the broadcasters do not cover the entire cost of production, someone else will. If action is not done, audience weariness is probably going to get worse. In many different ways, the media are interfering with our daily lives. We provide the media sector information when we read articles, purchase items, or communicate with friends on social media platforms, which may then be utilised for profitable endeavours like advertising. This implies that the social interactions and behaviours in our digital lives are being turned into commodities that can be purchased and sold.

In recent decades, there has been much discussion about the growing commercialization of the media. Newspapers were among the first mass-produced goods, and many have noted that the media has always operated inside commercial marketplaces (Hallin 2008:44). But media

organisation became increasingly commercial in the second part of the 20th century. Koller (2007), for instance, contends that commercial agents gained more sway over political institutions following the Second World War. This is related to changes in broadcasting that are becoming more commercialised in (many) European nations (Hallin 2008:44; Hjarvard 2008), changes that are also connected to more significant cultural trends like secularisation and individualization (Hallin 2008:47). For instance, Olsson (2002) has demonstrated how throughout these years, we began to stress individual rather than collectivistic types of communication and interpersonal relationships in Sweden [11], [12].

## CONCLUSION

Research has attempted to characterise the nature and effects of this commodification development, and it has been noted that the extension of the commodity as a form will also alter social relations and values that were previously outside the scope of a market. This has implications for democracy because the commodification of our digital lives also means that daily life is organised commercially, that people are turned into consumers, and that free speech expressed online eventually ceases to be free because it will be tracked, saved, and used for commercial purposes. By concentrating on people's experiences of living in a commodified, digital media existence, this chapter aims to further the study of commodification. We will first determine how much the general public approves or disapproves of various facets of the commodification of mediated social connections, and then we will examine the variables that may account for the various views towards commodification.

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## CHAPTER 12

### ONLINE LIFE IN A COMMERCIALIZED WORLD

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#### **ABSTRACT:**

Commodification has always been present in media use. When viewing (commercial) TV or reading newspapers, the media audience has been specifically targeted as a beneficiary of advertising. This monetization of the media audience has advanced with the development of the Internet. In many respects, public space is being organised more commercially, people are becoming customers, and free speech expressed online won't be free in the long term since it will be recorded, preserved, and utilized for profit. This chapter is based on a nationwide representative poll conducted in Sweden that asked respondents about their opinions on various elements of the commercialization of their online lives. The findings suggest that Swedish individuals have a somewhat pessimistic attitude towards various types of commercialization associated with Internet use. Younger respondents, those with liberal market principles, and people who use the Internet frequently have a more lenient perspective on a more commercialized media environment. There are two ways to combat such changes, focusing on media creators and consumers.

#### **KEYWORDS:**

Commodification, Commercialized, Life, Online, World.

#### **INTRODUCTION**

In recent decades, there has been much discussion about the growing commercialization of the media. Newspapers were among the first mass-produced goods, and many have noted that the media has always operated inside commercial marketplaces. But media organisation became increasingly commercial in the second part of the 20th century. Koller (2007), for instance, contends that commercial agents gained more sway over political institutions following the Second World War. This is related to changes in broadcasting that are becoming more commercialised in (many) European nations changes that are also connected to more significant cultural trends like secularisation and individualization (Hallin 2008:47). Olsson, for instance, has demonstrated how we began to stress individual rather than collectivistic modes of communication and methods of thinking in Sweden. During these years, connecting to others was important [1], [2].

There are two primary approaches to comprehending these procedures. Hallin contends that neoliberal developments are frequently characterised as a depolitization process in which the media lose their status as public institutions and begin working as commercial agents. Contrarily, these shifts are characterised in a more critical tradition as being influenced by political decisions made both locally and worldwide and as such being connected to a greater trend of neoliberalization of society. Therefore, political decisions are a component of the

growing commercialization of information and communication that has occurred over the past few decades [3], [4].

There are other forms of commercialization besides the power dynamics between politicians and media organisations. David Buckingham, for instance, contends that childhood is becoming more and more commercialised because children are being targeted and spoken to as consumers by media companies to a much greater extent than in the past. Their social interactions, games, and daily activities are all governed by a commercial logic and evaluated in terms of money. The term "commodification" describes the process by which material and immaterial entities are subsumed under the logic of capitalism and turned into things that can be purchased and sold. When we begin to pay for childcare, a part of human existence that was previously unaffected by economic transactions, this may be the turning point.

Another instance is when digital media companies profit from information about our regular activities, hobbies, and interpersonal relationships when it is preserved marketed to certain audiences. Today, more and more aspects of our life are being turned into commodities that can be purchased and sold on the market. Marxist theory holds that one of the fundamental characteristics of a commodity is that it is generated through a capitalist production process, yet many contend that commodification processes are already occurring in a variety of areas of life outside of manufacturing. These tendencies are particularly apparent when looking at the field of information and communication, where even public service media today act and think like commercial agents, target audiences such as children are addressed, media users are monitored to ensure they are exposed to the proper types of commercials, etc [5], [6].

### **Processes of commodification**

The first significant process of commodification began in England in the 16th century and reached its height in the 18th century. Common land was enclosed at this time and converted into private property, a process known as the "first enclosure" (Boyle 2003). As new facets of human existence, such as communication and information, are contained by commercial players, we now speak of a "second enclosure". This second enclosure, or "digital enclosure," subjects' new spheres of human life—both public and private—to the dictates of the market. Today, information and communication permeate every aspect of human existence, making them a more valuable commodity. This means that while advertisements have always served to frame media content, with the exception of public service media, what we are seeing now is advertisements entering new, previously non-commercial spheres of human life, such as social interactions, viral distribution patterns where people refer to their contacts as clients, etc. Bolin (2011) also makes the case that we now regard our consumption as being commoditized since the products and services we purchase are not only something we pay for; rather, information about what we purchase is now sold so that we may be tracked digitally and targeted as consumers for advertisements. The commercialization of the life world is a basic truth in today's society, according to Andreas Wittel [7], [8].

There appears to be widespread agreement that commodification is a fact, that the capitalist market has grown stronger, more pervasive, and hegemonic, that its logic colonises and subverts community logic, and that it is swallowing up more and more spheres and facets of life that up until now have not been governed by monetary measurement and monetary exchange. Other people have also expressed concerns about how the spread of the commodity may alter social interactions and culture. According to Prodnik (2014), these new information

and communication mediums will alter how we see, think, and communicate. Think critically at society, its political and economic system, and our own lives as you think, explore, create, and ask questions. In light of this, we'll examine how the Swedish public views various commodification-related issues in the context of digital media use in daily life.

## DISCUSSION

The SOM-institute, an independent survey research institution at the University of Gothenburg, conducts the National SOM Survey. The institution works with academics from a range of fields in order to investigate the attitudes and behaviours of Swedes in a variety of contexts and to comprehend the development of Swedish society. The survey's main inquiries concentrate on perceptions of the media, politics, and public services. Every fall, the survey is conducted by mailing a questionnaire to a sample of randomly chosen people, with the Swedish National Population Register serving as the sampling frame. 3,400 respondents between the ages of 16 and 85 answered the questions that were the subject of this chapter's analysis. In 2014, the response rate was 54%.

### **Internet-based social interactions that are for sale**

Three questions were designed to gather viewpoints on various facets of the connection between commodification and digital media. Respondents were asked to agree or disagree with four choices (agree fully, slightly, scarcely, not at all) in the form of suggestions for the items. It is improper to share advertisements with friends or followers on social media. The first question addressed the monetization of social relationships in social media. According to Thompson (1991) and Prodnik (2014), social ties aren't often described as business relations. Of sure, people can establish acquaintances to advance their jobs or gain other benefits, but the majority of people do it for different reasons. However, social media platforms have a significant amount of imbedded advertising. You are asked to "like" pages that are associated with commercial goods and businesses as a user. Additionally, you are informed whether your friends already like this website or item. Discounts or free samples in exchange for sharing advertisements with friends on social media networks are examples of other forms of commodification. Communication research has shown that we are more likely to change attitudes and behaviours if our friends or other people we trust promote an opinion or product. Psychological research has demonstrated that our actions are highly dependent on how our family and friends behave.

The second query focused more on authenticity in the context of commercialized social relationships. If it was allowed for bloggers to advertise things on their blogs, that was the question in the survey. Most people assume that a blogger is not primarily not a salesperson, but somebody who writes about themselves or a topic that interests them. Blogs include a wide range of topics, including online personal diaries, the formation of political opinions, fan pages, etc. Bloggers frequently exhibit the quality of not attempting to create a relationship with their audience that is primarily commercial in nature. But according to Lowery, Patton, and Meade (2011), it has become a common practice for bloggers to get compensation for their writing or commercial endorsements. How much of the public is in favour of this phenomena is the question. Do they believe that commercializing the reader-blogger relationship is appropriate or does it damage this connection's legitimacy and trust (see Abidin & Ots, and Piety, in this volume)? Exposure to commercial messages based on previously visited websites is the third part of commodification. This is known as digital

tracking. Target groups are continuously being optimised by advertising companies. The advertising business has long tried to match audiences with adverts, so this is nothing new. What is novel is the relationship between exposure to advertisements and decisions about which websites to visit. We want to know how comfortable people are with the idea of having their online media usage tracked and used to advertise goods and services [9], [10].

The general population in Sweden is generally wary about various types of commercialization connected to Internet use. 70% of respondents completely or somewhat agree that it is inappropriate to share adverts on social media with your friends. Even more people (78%) concur completely or in part that algorithms based on browser history should not be used to determine which adverts you view. Regarding bloggers endorsing items on their blogs, the consensus is inverted. The majority of respondents (59%) here agree (totally or somewhat) with the statement that it is OK for bloggers to advertise goods. The wording of the question about blogs, which does not differentiate whether the bloggers are open about their commercial promotion or if it is concealed<sup>1</sup>, may help to explain these inconsistent results to some extent.

As a result, views on the commercialization of Internet use are split. Strong opposition exists to the commercialization of deep social ties and the association of internet use with exposure to advertising. Although there has been some debate over bloggers who use their platforms for profit, the majority of people consider it appropriate. When we encounter advertising in settings where we are not prepared for them (contact with friends), or when they are unavoidably present in our daily media usage (TV, radio, SMS, mail), we appear to be reluctant to accept them (Grusell 2008; Reuters Institute 2015). Similar to this, when we look for information online, we have a propensity to embrace commercialization. Similar to how we tolerate morning newspaper adverts (which may be ignored) (Grusell 2008; Reuters Institute 2015), we prefer that blog be commercialised over friendships or exposure to advertisements based on our online behaviours.

### **Commodification: an alternative way of thinking**

The overall picture is seen above. However, based on prior research, we may anticipate various points of view from various respondent groups. Younger individuals tend to embrace different types of digital media usage, according to research on media morality, and older people tend to have more traditional views about what is acceptable and wrong in terms of digital media conduct. With age comes a greater percentage of people who have negative opinions about certain behaviours, such as talking loudly on a phone in public, tagging people in posts on social media, and using speaker phone without letting the person you are speaking to know. The study enables one to identify the independent influence of several elements on perceptions of the commercialization of daily life in the digital age. However, selecting explanatory factors is not always obvious. Independent factors in this case are based on earlier studies into advertising and the usage of digital media. We also take into account elements that have historically been employed in social science research to account for societal viewpoints, such as socioeconomic class and education.

According to research, a person's political ideology has a significant impact on how they evaluate various business types. In contrast to individuals who take a stance to the left, people who place themselves to the right on the conventional right-left ideological scale (Gilljam & Oscarsson, 1996) are often more favourable towards various forms of advertising. In other

words, people who have a stronger neo-liberal ideological bent also like advertisements. The sort of marketing, however, affects how people feel about them differently. In comparison to older respondents, younger respondents had fewer negative perceptions about TV advertisements, however this is not the case when morning newspaper advertisements are included. Women typically watch commercials in articles more favourably, but there are no gender distinctions when it comes to TV advertisements. Another thing that appears to be crucial is a media habit. According to Grusell, people who regularly read the morning newspaper and those who frequently watch commercial television are more receptive to commercials. However, it should be emphasised that in Sweden, the majority is against TV advertisements. Unexpectedly, education level does not consistently predict views on ads (Grusell 2008).

As was previously noted, research demonstrates that age shapes how we determine what is acceptable and what is not while using digital media. When it comes to how we use our mobile devices and the Internet, there are significant age gaps in what is considered appropriate conduct. The independent variables are calculated with a range of 0 to 1, and the regression coefficient (b) displays the impact of the component on commodification as the range of values increases from lowest to highest.

Younger people are often more accepting of the commercialisation of daily Internet life. They often have a more positive attitude towards advertising, are more tolerant of the use of digital media, and are less concerned with issues related to registration or legitimacy. In this respect, the results are very consistent with earlier research. Opinions on commodification also appear to mirror the overall tendency that liberal market ideals might be related with favourable views on advertising. Tolerance for the commercialization of various realms, in this example the Internet and interpersonal relationships, is significantly connected with these ideals. People who use the internet more regularly are more accepting of a more commercialised media environment. Independent of one another, each of these elements affects the other. For instance, regular users, regardless of age, will generally accept friends who spread commercial messages through their social networks when engaging in a variety of activities including emailing, surfing, looking for information, and utilising social media. An even larger link is shown after a more thorough investigation when using social media (on their PC or mobile device).

We only discover a few instances of the other independent factors having an impact on people's views on commodification. More than males, women and highly educated respondents appear to accept that advertising are shared on social networks on the Internet. Future processes of commodification might seriously undermine democracy because they challenge our ability to act as citizens in a world that is mostly commercial. It also has ramifications for free speech since when words are recorded, kept, and sold for profit, they are no longer free. The most obvious outcome of our analysis is the significance of age in the various relationships to these economic processes of cultural structuring. Compared to the elderly, young people have a lot less trouble adjusting to life in a commercially structured society. This means that over time, the number of criticisms against commodification will gradually decline. It might indicate that the maintenance of a space for expression outside of these commodification processes poses a danger to free speech and democracy. We primarily identify two strategies for rebuking this trend.

The first viewpoint focuses on media creators, while the second addresses media consumers. These are not mutually exclusive, and if media commercialization is considered as a social issue, both media producers and consumers might be affected by the activities done (see Svensson in this book). The demands for openness in how media businesses tell users about how they use content produced by the media audience, as well as the amount to which such data is gathered, may be at the heart of the issues aimed at media producers. It could also concern how obvious commercial signals are to media consumers, i.e. how easily consumers can see advertisements and product placement in media (a topic covered by Svensson, Stiernstedt, Piety, and Edström in this volume). Both of these issues, which involve international corporations and might be the focus of legislation or an industry regulating organisation, are complicated. National laws and moral standards are made more complex by the global viewpoint, and it appears that both domestic policy and international collaboration are required.

The second viewpoint focuses on media consumers and attempts to educate them—particularly young people—about how social media are set up and the logic of the market that underpins these applications. This has to do with the research done in the area of media and information literacy (MIL). The UNESCO definition of the notion includes the ability to comprehend media as an institution (and its role in society) as well as media content (to comprehend and generate). Our research emphasizes how crucial it is to comprehend digital media infrastructure and the (market-driven) processes that control it. The need of extending the definition of MIL is demonstrated by the ignorance and/or apathy of young people towards the economic aspects of the digital media ecosystem. Citizens must be aware of how market-driven logics are presently the requirements for our digital lives in order to raise concerns about how and to what degree their social lives are being commercialized.

We concentrate on a particular group of stakeholders in the evolving brand management landscape: regular Internet users who fashion themselves into a new kind of social media micro-celebrity known as the "Influencer". While the usage of Influencers for commercial purposes is a developing phenomenon in marketing around the globe, the information for the instances was gathered through research in Singapore between 2011 and 2015. In Singapore, many young women have started creating "micro-celebrity personas" on social media since 2005. Unlike Micro-celebrity is defined as "a state of being famous to a niche group of people" and entails the curating of a persona that seems "authentic to readers," as opposed to major entertainment industry celebrities who are public icons with broad followings. The development and maintenance of the personal brands of the semi-professional Influencers is essential to their success. According to studies, they diligently work to increase audience size and exposure (Marlow 2006), but they also place a high value on developing close, personal bonds with their followers.

Their media brands are what Roberts (2004) and Fournier (1998) and Ots and Hartmann (2015) refer to as "Love-marks"—brands that are not just regarded but also trusted and liked. Abidin & Thompson (2012) identified four strategies used by commercial bloggers (a forerunner of influencers) to develop this intimacy with their mass audiences: endearment and personal language, authenticity through unaltered 'behind the scenes' material, commonality with readers by showcasing shared mundane practices (despite a lavish lifestyle), and real-life encounters with their followers. Marketers are looking for new platforms to spread their brand messaging as commercial businesses continue to forgo

traditional advertising. Influencers are becoming more popular in this process as a result of their value as marketing intermediates and brand endorsers due to their built-up social capital and audience ties. Influencers now publish advertorials on blogs and social media sites in exchange for money or sponsored goods and services, which is their most fundamental function. As a result, many bloggers have financial and contractual ties to and commitments from product sponsors, either directly or indirectly through different agencies and content networks [11], [12].

## CONCLUSION

The success of the Influencers depends on more than just closeness it also depends on their own reputation and taste. Accordingly, demonstrated how Influencers' deliberate selection of language, visuals, and style resulted in the accumulation of both social and economic capital (growing their celebrity status and personal brand). In other words, since followers and consumers are becoming more aware of the commercial nature of influencer editorial content, credibility is crucial for the growth of the Influencers' own media brands as well as for their effectiveness as commercial product brand endorsers. However, a strong sense of credibility acts as a safeguard against indiscriminately positive paid reviews. The commodification of social media network fans, followers, and contacts is not exclusive to Influencers, as Johansson and Bengtsson demonstrate in this volume, but the emergence of an Influencer industry can undoubtedly be seen as a manifestation of a 'third enclosure' - the market orientation of human life.

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## CHAPTER 13

### SELF-REGULATION AND REGULATION OF CONTENT

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#### **ABSTRACT:**

Media actors have traditionally attributed several motivations for media self-regulation, including enhancing credibility, legitimization, professionalization, and preservation of press freedom. According to the freedom argument, established, freely determined constraints on media behavior and content deter legislation. The connection between the voluntary system and the state, which has changed with various media models, has been compared to that of a thermostat or communication vessel; when legislative pressure is building, the media releases it by changing self-regulation. The interactions between the state and the media regarding media content are growing increasingly complex as direct media regulation is replaced by indirect media governance and as historic media monopolies are challenged by the Internet. A media accountability approach is used in this chapter to explore regulatory challenges in Scandinavia, the UK, and the US using four frames of reference: political, market, (media) professional, and public.

#### **KEYWORDS:**

Content, Institutionalized, Political, Professionalization, Regulation.

#### **INTRODUCTION**

Numerous reasons, including increased credibility, legitimacy, professionalization, and preservation of press freedom, have traditionally been attributed to media self-regulation. According to the freedom argument, institutionalized, freely established constraints on media content prevent legislative restraint. According to media models, these procedures could change. Conflicts between society needs for a diversified and information-rich media environment and media freedom are frequently resolved by media self-regulation. Self-regulation is often promoted by the government and started by media associations. Peer review of news articles that have been published is part of it. Both an indication of an unwritten social contract with room for contract talks and a barrier to structural media changes may be recognized in this process (Pickard 2015). Politicians may turn to violence when self-regulation is perceived as too sluggish or limited and they feel their standard negotiating methods are no longer effective to legislative proposals seen as threats by the media sector in response to regulatory measures. When legislative pressure is mounting, the media releases it by making changes to the self-regulation system, which is how the voluntary system and the state are defined as communication vessels or thermostatic ethics. The framing of the issues leading to regulatory threats that supported press/media councils in Sweden, the UK, and the US are explored in this chapter from the viewpoint of media accountability [1], [2].

At least if it is taken as a divide between journalism and advertising, this chapter does not deal directly with the conceptual distinction between free speech that is driven by democracy

and free speech that is driven by the market. However, it is noticeable that opponents of even media self-regulation frequently employ reasons that are largely market-driven, whilst supporters embrace arguments that are driven by democracy. For the media-government relationship to be democratically engaging, media consumers must be seen as either audience members or citizens.

### **Media Responsibility**

Accountability demands for the media evolved out of wider movements for social responsibility. A possible explanation is offered by media historian Marzolf: "Accountability implied some mechanism to enforce standards; responsibility was self-imposed". The phrase "all the voluntary and involuntary processes by which the media answer directly or indirectly to their society for the quality and/or consequences of publication" is a common definition of media accountability. Four frames of reference are presented that group various approaches to holding the media responsible, frameworks within which expectations develop and allegations are made and handled market context. According to this framework, laws of supply and demand are anticipated to strike a balance between the interests of the media business and those of consumers and, thus, society's attention. Well-crafted frame. This framework features a self-regulatory aspect that works with improving both the performance quality and the reputation of the media industry. Social accountability and independence from the government are crucial public picture. The media is exhorted to advance the public interest in this context. The public as citizens belongs to the public frame, but the public as an audience is dealt with inside the market frame. Demands are made about social concerns and roles [3], [4].

### **Political setting**

Through laws and regulations that control free expression, uphold rights, and provide guidelines against possible media harm, accountability is shaped into responsibility. The process of formulating policy that comes before legislation is also covered in this frame, along with threats of legislation. Some of the justifications for media self-regulation cited in the many frames used to demand media responsibility from the media and in media replies to such demands include credibility, legitimacy, professional behavior and principles, and protection of press freedom.

### **Examples of three regulatory risks**

Three examples show how various media accountability frameworks were applied and work in response to challenges to media regulation in various media formats and historical situations. The Finkelstein Report in 2012 and its aftermath, threats of statutory regulation in 2003, the creation of the press council in 2007, and Germany (threats of statutory regulation in 1952 and the establishment of the press council in 1956) are just a few examples of cases that could be studied to further our understanding [5], [6].

### **USA**

Henry Luce of Time and Life funded the Hutchins panel on Freedom of the Press in 1943 against a backdrop of escalating government probes into newspaper ownership structures and media criticism for sensationalist news coverage. Leading academics were assembled by Robert Hutchins, president of the University of Chicago, who came to the conclusion that the press "is not meeting the needs of our society", that "freedom of the press for the coming

period can only continue as an accountable freedom", and that if the press does not become accountable "of its own motion, the power of government will be used, as a last resort, to force it to be so". The newspaper owners vehemently attacked the proposal as totalitarian, unconstitutional, and communistic despite the fact that the recipe for self-regulation based on a principle of social responsibility had already been prescribed, and although this recipe was intended to impede government intervention.

## DISCUSSION

The Knickerbocker News in Albany, New York, published a title that sums up the sentiment in certain quarters: "Professors Blindly Try to Curb Press by Regulations to End All Our Liberties". Regional media councils were established in 1970 in Hawaii, Minnesota, and Washington. Despite opposition from major news companies including The New York Times, the National News Council was established in 1973 and disbanded in 1984.

### **Bodies of responsibility**

The debate around the report absolutely dominated the market frame. The majority of the recommendations were rejected by the American Society of Newspaper Editors stating that "public judgement" alone should regulate the press". Publishers overcame attempts to "undermine public confidence in the American press as an institution" due to "anger and resentment". Dissenting positive press voices inside the professional framework were reprimanded. As the government's former New Deal focus was supplanted by a rising cold war rhetoric, reform-supporting views from inside the political framework were marginalised. "The First Amendment trump card is played and the discussion is over if the talk turns to enforcement" (Craft 2010:48). According to Pickard (2015), the Hutchins Commission was an intellectual elite project that had not forged partnerships with grassroots groups that were critical of the media. As a result, its ideas were never prominently included in the public discourse [7], [8].

## UK

In 1695, previous licensing, a type of government control over the press, was abolished. According to a history of British self-regulation, "the press became 'free' because government efforts at regulation failed" and this explains much of the "peculiarities of the British press". The Press Council launched self-regulation in 1953. The notion of a press council did not come from inside the media; rather, it was reluctantly accepted as a result of political pressure stemming from worries about sensationalism and monopolization. It was the idea of a Royal Commission, led by the vice chancellor of Oxford University (similar to Hutchins in the US), which was then established by Parliament following a motion made by two Labour MPs (similar to the Swedish social democrats' activities). "An industry that did not want and did not like it was behind the scenes and façades of the 'important experiment' in press self-regulation".

Since then, self-regulation of the press in the UK has come under fire for being ineffective, has been the subject of several Royal Commission investigations, and has occasionally been amended. A member of the British cabinet claimed in 1989 that because of sensational news coverage, "the popular press is drinking in the Last Chance Saloon". This assertion prompted a second Royal Commission, which this time recommended statutory regulation should self-regulation not become impartial, independent, and more effective within 18 months. When

evaluating "the advantages of appearing tough with the press" internally, the administration backed the plan with caution. The government provided a dressed-up do-nothing alternative after a few years of continuing, supposedly ineffective self-regulation in the new Press Complaints Commission, PCC, paired with clumsy government threats of additional legislation. The former minister stated in an internal document at the time that making more unfounded threats would have been "merely to advertise the government's weakness". However, in private talks with Cabinet members, Lord Wakeham, the PCC's chairman from 1995 to 2001, applauded the government's threats to a certain extent, they helped him bring reform-resistant press segments together. He later claimed under evidence that the possibility of statutory intervention which never materialized was what convinced them to cooperate with him. They did so for almost seven years while he was in charge (Wakeham 2012:60).

When the phone-hacking scandal broke in 2011, it revealed a widespread trend in some of the popular press to utilise unethical, if not criminal, ways to find spectacular news items. Hacking into the voicemails of celebrities', criminals', and their loved ones' relatives' mobile phones was one of the techniques utilised. The PCC, which had disregarded earlier indications of abusive phone hacking, was the target of some of the political, popular, and professional rage brought about by this incident. A new model of press self-regulation with a legislative foundation and independence from media owners was proposed following a protracted investigation conducted by Lord Justice Leveson (Leveson 2012). The Conservatives objected to several of the Leveson proposals, but a compromise reached in Parliament with Labour and the Liberal Democrats led to a Royal Charter rather than a regular Act. The PCC was swiftly disbanded, but the majority of newspaper firms disagreed with the provisions of the Royal Charter and instead founded The Independent Press Standards Organisation (IPSO), a new body that declines to apply for accreditation under the Royal Charter. When it comes to handling complaints, IPSO has been compared to a press-dependent, dressed-up PCC that hasn't been able "to clear out the Augean stables after the debacle of the hacking scandal" (Ponsford, 2015). The journalists' union, media activists, researchers, and victim's associations, among others, are eagerly awaiting the Royal Charter application of a new, much smaller institution named IMPRESS, or Independent Monitor for the Press (Barnett 2016).

### **Bodies of responsibility**

The UK discussion in 1990 was characterised by arguments that echoed the red tops' significant circulation statistics and combative approach to outside criticism. Under Blair and Brown arguments within the political framework shifted from being mildly confrontational under Prime Minister Major to being more cooperative; theoretical underlying threats were more likely to be directed at the politicians from the media than the other way around. In the Leveson hearings, Major, Brown, and particularly Blair made specific mention of their worries that, if they attempted to address media misbehaviour with regulatory efforts, the media would hound them, their families, and their political aspirations.

Before the 2011 phone-hacking incident rocked the foundations of politics-press relations, investigations against media wrongdoing and efforts by lone Labour MPs did not amount to much. A metaphorical window of quiet was opened, and a stream of criticism from the public, professional, and political spheres erupted. This led to the formation of action organisations, fresh coalitions, and fruitful social media boycott campaigns (Watson & Hickman, 2012). Market-based arguments were no longer in the forefront; News of the

World was shut down, and political vows for extended probes and increased media accountability measures grew stronger. The issues raised by the hacking scandal have not yet been resolved despite Leveson's investigation, a year of Parliamentary deliberations, trials, victim statements, compensation negotiations, extensive press council preparations, a new conservative majority in Parliament, and rival regulators lining up [9], [10].

### **Sweden**

Expression and Aftonbladet, two rapidly expanding tabloids, engaged in fierce competition in the 1960s, which resulted in a number of instances where the personal integrity and interests of celebrities, accused offenders, victims, and others were disregarded. Readers, journalists, artists, labour unions, industry executives, and politicians all voiced criticism of the media's behavior. Leading social democrats (the ruling party) in Parliament threatened legislation in response to this criticism and concerns about the continued monopolization of newspapers (von Krogh 2009); a government ombudsman would oversee the press if the press council established in 1916 (initiated and run by the press) did not become significantly more effective. The newspaper publishers' association took action to give the Press Council additional resources and teeth despite industry-wide policy divisions. Further compromises were made in direct negotiations between media groups and Parliament because the politicians were dissatisfied, nevertheless. The eventual result was a Press Council that was no longer entirely under the authority of media groups and a National Press Ombudsman for the Public (rather than for the Press, as the publishers had intended). Parallel to this, Parliament established government aid for struggling (mostly social-democratic) publications.

### **Bodies of responsibility**

The debate was dominated by arguments from the public and political spheres, with assistance from the professional sphere (ibid). The editors of tabloids tried to use the market frame to support their claims, but they were unsuccessful; it was generally accepted that the market could not address the issue of declining content quality. The argument turned even more against when it eventually decided to completely dissolve the Press Council, branding the Council a tool of obscurity after being reprimanded in a complaint case. Several editors and media executives turned against tabloid journalism and supported arguments upholding the professional frame of accountability and truthfulness. The argument for social responsibility was strengthened by books written by journalists and media critics that detailed media gaffes.

The dominant social democrats in parliament went on the attack, fearing sensationalism and a liberal and conservative bias in the media market's consolidation (von Krogh 2012b). They highlighted that "a broad public opinion" was interpreted by them to mean that the public, in general, shared their worries. Conservative and liberal MPs struggled to contain the attack, they were compelled to acknowledge that there were pressing issues with the press that required attention. The Democratic Corporatist media system model (Hallin & Mancini 2004, which includes self-regulatory tools and combines constitutional protection of free expression with approval for governmental interventions in the media sector) is firmly established in all of the Nordic nations. In all of the Nordic nations, state influence on media self-regulation has taken many different forms.

After political threats of legislation in the early 1990s, media groups in Norway proactively opened up their self-regulation. The state abandoned the majority of its regulatory framework on the moral considerations of public service material and public and commercial broadcasters joined the media council. In Finland, the government long supported media self-regulation by footing a sizable portion of the bill, claiming that the media council reduced the amount of libel cases that ended up in court. The state in Denmark threatened legislation in the 1980s if the media organisations did not establish a media council. A media council was established by legislation in 1991 as a form of controlled self-regulation after publishers' and journalists' associations were unable to reach an agreement. The council's constitution is not a contentious issue in Denmark after 25 years of existence.

Both the US and the UK fit into Hallin and Mancini's (2004) typology of media systems, which has a "bias against intervention in markets" (Humphries 2011:343). However, there are some key characteristics that set the UK model apart from the US model, including a robust public service broadcasting sector, a national press council, and a broad political spectrum of national newspapers (ibid:319). As previously said, Sweden is a member of the Democratic Corporatist paradigm with a less antagonistic perspective on state-media interactions. Placing Sweden at one end of a state-market scale, the US at the other end, and the UK in the middle—the same places Hallin and Mancini utilise throughout the entirety of their media models (2004)—is instructive when comparing the three situations. Wide-ranging agreements between state and market representatives have a history in Sweden. There is also a degree of mutual trust between them. Pragmatic discussions on the "quantum satis of public influence over media self-regulation take place, and even editors and publishers disagree on the market's interpretation of accountability. The talks led to a compromise in which certain seats on the press council were handed to the public and the press ombudsman was chosen jointly by the press and the public, as opposed to only the press originally proposed. On the opposite end of the spectrum, in the US, media owners actively rejected arguments that did not fit within the market framework for accountability and recoiled at any mention of even indirect government action. Press councils were nonetheless opposed by *The New York Times*, a key opponent of the Hutchins report's recommendations, on the grounds that they may "encourage an atmosphere of regulation in which government intervention might gain public acceptance". We shall continue to be watched and assessed by those whose critiques are crucial to us – our readers," the *New York Times* announced in 1973, explaining why the publication would not collaborate with the newly established National News Council.

The UK is in the Centre and has been involved in ongoing discussions between media groups that are opposed to any government intervention and governments that are somewhat wary of the influence of the media since 1953. Despite the low degree of confidence on either side, persistent attempts were nevertheless seen as useful by both parties. Sensationalist reporting has thus periodically erupted, and pleas for change have persisted. Internal government documents and witness testimony provided under oath in relation to the Calcutt Committee in 1990 and the Leveson Inquiry in 2012 have revealed a combination of real negotiations that took place offstage and a theatrical masquerade for the general public, the press, and Parliament that took place onstage. This ritual underwent a major transformation in 2011 as a result of the phone hacking crisis, when discussions within the public and professional frames supplanted those centered on the market. Differences among media companies and political hostility to market-based thinking versus legislative support for media self-regulation both grew increasingly obvious. The problem of media responsibility clearly moved into the

political realm. When self-regulation strategies in Sweden and the UK are compared, it is clear how important differing historical starting points are. With a codified constitution preserving freedom of expression dating back to 1766, a press council established by the press in 1916, and powerful media groups, Sweden has established a covert connection between the media and the government [11], [12].

## CONCLUSION

The state backed off after overcoming issues with sensationalism and monopolization in the 1960s that resulted in press subsidies and some public control over media self-regulation. Since then, proposals for legislation governing media content have generally been rejected in light of an effective self-regulatory system. With a history of free speech in the UK dating back to 1695 that hasn't been explicitly protected by a written constitution, a wide variety of newspapers that have differing opinions on media ethics, and self-regulation that was essentially imposed on the press in 1953, its effectiveness has been continuously questioned, looked into, and mistrusted. For internal and external audiences, media representatives and Cabinet officials have mounted plays that mixed criticism, threats, adulation, and triumphs. Politicians in Sweden utilised threats in the 1960s to accomplish a number of purposes; up to the phone-hacking crisis, politicians in the UK used threats as a ritual and backed down in order to avoid upsetting the apple cart and accomplish other goals (von Krogh & Nord 2015). Self-regulation consequences are still up for debate. An approximate assessment of the factors at work is possible by looking at the prevalence of various frames of accountability. For instance, it might be expanded to analyse coalitions between stakeholders or groups within stakeholders that favour arguments within particular frameworks.

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