Introduction

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Empirical evidence[1] demonstrates that states around the world are gradually setting up or reconfigurating existing media regulators. The nature and performance of theses bodies vary profoundly from country to country and the consequences of their action (and inaction) cannot be understood outside the specific national and regional contexts of these societies

This publication "Media Regulators in Europe: A Cross-country Comparative Analysis" aims at gathering and analyzing information about media regulators in a particular part of the world: Western Europe. Although there is quite a lot of data available (mostly online and in different languages), we're attempting to organize a coherent and hopefully useful document for regulators, politicians, academics and citizens concerned with the symbolic environment. Media regulators are supposed to improve the overall quality of the media and some certainly play a relevant role. They are expected to raise media standards and therefore to contribute to the expansion of public and private media social responsibilities. But do they? And, if so, how and why?

This e-book results from the common intellectual interests of the EuroMedia Research Group[2] and the collective research project "Media Regulation in Portugal: The ERC's Case" (PTDC/CCI-COM/104634/2008)[3], based at the Communication and Society Research Center (CSRC), University of Minho. One of the project's objectives is to understand the Portuguese national media regulator in context. Therefore, we have invited members of the EuroMedia Research Group and the Project's consultants[4] to participate in this collaborative project that brings together the contributions from thirteen countries: Austria, Finland, France, Germany, Greece, Ireland, Italy, Poland, Portugal, Spain, Switzerland, The Netherlands, and the United Kingdom.

Together we have developed a model to compare media regulatory bodies across Europe. We met in Ghent (19-20 November 2011) and in Helsinki (28-29 April 2012) to discuss a model that could contribute to a more coherent, contextual and holistic gathering of information about state/national media regulatory bodies in different countries. So, basically, this book is an attempt to implement the model we have developed so far. Each chapter corresponds to a specific country and the authors have tried to respond to the questions put forward in the nine dimensions of the model. As expected, not all were relevant in every case and the model faced particular difficulties in countries such as Germany or Spain, where the regional character of the political system has complexified the regulatory system.

We are now presenting the model as it was presented to the authors and answered in the following chapters.

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[1] Information available online at http://www.lasics.uminho.pt/mediareg/?page_id=425&lang=en. Accessed 30.03.2013.

[2] Information available online at http://www.euromediagroup.org/. Accessed 30.03.2013.

[3] Information available online at http://www.lasics.uminho.pt/mediareg/?lang=en. Accessed 30.03.2013.

[4] Information available online at http://www.lasics.uminho.pt/mediareg/?page_id=163&lang=en. Accessed 30.03.2013.

1. Dimension	*Legal framework*

What is the designation (original language and English translation) and legal definition of the state media regulatory body (or bodies?)

What are the legal documents (laws, rules, protocols, others) framing the media regulatory entity(ies)?

Does the law clarify the nature of the state media regulatory in terms of its independence regarding the government of the day? Is it formally an 'independent' entity/authority or, for example, an administrative agency of the government?

Are there formal links with self-regulatory and co-regulatory media structures?

2. Dimension	*Functions*

What media/mew media sectors does it cover? Please specify if and how the internet is mentioned.

If the regulatory entity is a convergent body (media + telecoms, etc), when did it acquire the present-day format?

What are the functions the media regulatory entity(ies) is (are) expected to perform according to the law?

Does media content regulation cover advertising?

Is media education/digital literacy included in the explicit (or implicit) functions?

What are the functions the media regulatory entity is expected to perform according to other social actors? (This is particularly relevant if there are social debates about absence of regulation on some sectors/areas).

Is there a functional distinction between state, self and co-regulatory mechanisms?

3. Dimension	*Legitimizing / underlying values*

What are the values that justify media state regulation? Where can this 'normative theory' be found? (e.g. law, agreements, protocols, political discourses, others?)

Is it identifiable a hierarchy of values? (e.g: freedom of speech/press, independence, pluralism/diversity, protection of fundamental human rights, quality, empowerment, others).

The values defended by state media regulatory structures are similar to those safeguarded by self-regulation and co-regulation?

4. Dimension	*Performance*

What are the tasks that the regulatory entity(ies) actually perform in its/their daily activity? (This is particularly relevant to mention discrepancies between legal duties and actual performance).

In daily activity, the state regulatory body(ies) complement and/or clash with the activities of self-regulation and co-regulation entities?

When citizens, media companies or other actors disagree with media regulatory decisions/performance, are there appeal mechanisms? Can courts overturn a particular decision taken by the media regulatory body?

5. Dimension	*Enforcement mechanisms / accountability*

What are the legal mechanisms to ensure compliance with the media regulatory body(ies)' decisions?

Are these legal enforcement mechanisms used and how?

How relevant are non-binding guidelines and regulatory doctrines?

Whom is/are the media regulatory entity(ies) accountable to?

Are the media regulatory body board members subject to any incompatibility regime to safeguard their independence or to protect other values considered relevant?

6. Dimension	*Institutional organization / composition*

Board	Staff	Media sector	Civil Society
What is the number and composition of the governing body? What are the main functions of this board	What is the overall number of the regulatory body staff? How is it organized? What are the functions?	Are the media represented? By whom? What role is it supposed to perform?	Is civil society represented? By whom? What role is it supposed to perform?
How long are the mandates? Is there possibility of mandate renewal?	What is based on precarious or stable labour?	How long are the mandates? Is there possibility of mandate renewal?	How long are the mandates? Is there a possibility of mandate renewal?
Are members appointed, elected or selected by any other means?	What is the recruitment policy?	What is the selection mechanism?	What is the selection mechanism?

7. Dimension	*Funding*

How is/are the media regulatory body(ies) funded? What is the proportion of revenues (state budget, licenses, fees, fines, etc.). What are the expenses/revenues (totals) per year?

Is there any yearly financial report? Is it public?

8. Dimension	*Regulation in context*

General brief description of the national media system where the media regulatory body is inscribed (level of market concentration, PSB (yes or no), nº of TV channels, nº radio stations, delivery systems, internet penetration, etc.)

General comment on your own perception regarding the relevance of the media regulatory body(ies) in the national media system. Is/Are it/they significant?

9. Dimension	*Ignored dimensions*

Please let us know whether this model is missing critical dimensions to the examination of the media regulatory body (or bodies) in your country. If this is the case, identify and explain the relevance of the aspects which are not covered in this model.

Mostly written by experienced academics with the research assistance of younger colleagues, these country reports show a notorious variety of experiences that can be appreciated in the following next thirteen chapters.

In the Austrian report, Manuela Grünangerl, Josef Trappel & Corinna Wenzel give us a general overview on the Austrian Communications Authority (KommAustria) and reinforce the importance of the media regulatory body in the national scenario. On the other hand, Anna-Laura Markkanen & Hannu Nieminen present a different scenario regarding state media regulation in Finland. In fact, around 245 full-time employees integrate the body's structure, which immediately leads us to the differences between the size and scope of regulatory bodies in different countries. Moreover, it appears to be a fluent relationship between FICORA and the Ministry of Transport and Communications, to whom it is directly subordinate to, and also a collaborative stance towards integrate decisions.

Specific geographical characteristics are probably more evident in the German and Spanish cases due to the highly intricate structure of media regulatory bodies in each of these countries. Federalism and the distinction between commercial and public broadcasting, regulated by different bodies, are the reasons appointed by Indira Dupuis and Barbara Thomass for the difficulty in applying the cross-country comparative model to the German case. In Spain, Laura Bergés Saura and Núria Reguero Jiménez show that many bodies are involved in several fields of the media sector, such as market competition, content or telecommunications, and also a cumulative regionalization in these areas, which leaves media regulation disperse in different areas of activity and diverse central and regional structures.

Most of the analysed countries show that the usual legal form chosen for the regulatory bodies is of "independent administrative entities", as is the case of the Portuguese ERC, the Italian AGCOM or the Greek National Council for Radio and Television. Nevertheless, there are cases in which the option is for the constitution of agencies, such as FICORA (in Finland), which also as the peculiarity of having a director as main decision-maker and not a collegial body, as we commonly identify in other regulatory structures.

The Greek report, written by Stylianos Papathanassopoulos and Achilleas Karadimitriou, describes a National Council for Radio and Television (NCRTV) similar to the Portuguese ERC since both are enshrined in national legal frameworks as independent administrative authorities/entities. Nevertheless, researchers point out the peculiar funding scheme of NCRTV, which is solely derived from state budget (as well as Poland, for example), against the general option for mixed solutions, usually combining public funding with fees applied to media companies. On the contrary, the Irish regulator is funded by means of a levy imposed on broadcasters, as Marie McGonagle and Annabel Brody state in their report about The Broadcasting Authority of Ireland (BAI). This is probably the most detailed report in self-regulation and co-regulation issues, as authors dedicate several pages to these regulatory mechanisms nonetheless also showing that functions and roles are clearly distinguished between them, without registering cases of overlapping activities but emphasizing a certain sense of complementarity.

Divina Frau-Meigs and Sophie Jehel proceed with an historical review on the French tradition of state media regulation and clarify the role of the *Conseil Supérieur de l'Audiovisuel* (CSA) mentioning that it practically acts as a buffer-agency, with members from the state, the profession

and, to a much lesser extent, from civil society. This sensitive question is worth our attention as we perceive not only civil society, but also the media, as crucial elements in the process of media regulation. Therefore, this explains the addition of a straight question on this matter in the developed model with the purpose of understanding which ways (if any) do European countries adopt to include these actors in state media regulatory bodies' structures.

The Polish country report is very clear on the importance of politicization as a dimension of analysis of state media regulatory bodies. In a couple of paragraphs, Stanislaw Jedrzejewski stresses that there are persistent problems in Poland regarding the discrepancy between the intended broadcasting policy and current practice, also stating that the National Broadcasting Council's composition has been suffering from politicization in both ways: the nomination process and the members' affiliation to political parties.

Werner A. Meier and Martina Leonarz present the Swiss OFCOM as a regulatory body without decision-making powers, very close to the governmental sphere due to its allocation as a supervisory and administrative agency of the Department for the Environment, Transport, Energy and Communications (DETEC) and the Swiss Federal Communications Commission (ComCom).

Independence is, as several contributors systematically show, a recurrent subject for those studying media regulation and, in particular, media regulatory bodies' framework and performance. Once again, the question is raised by Leen d'Haenens, Quint Kik and Andra Leurdijk, authors of the Dutch country report. They present us three regulatory bodies with responsibilities in the media sector: the Netherlands Media Authority (*Commissariaatvoor de Media - CvdM*), the Independent Post and Telecommunications Authority of the Netherlands (*Onafhankelijke Post en Telecommunicatie Autoriteit - OPTA*), and the Radiocommunications Agency (*Agentschap Telecom - AT*). In this case, independence is described by researchers as 'formal' because, in fact, bodies perform their activity based on the premise of acting as extensions of the Dutch government. The Media Authority, for example, has independence from the government by the guarantee that the Minister has no right to interfere with research goals or complaining processes. However, its decisions can be overruled. This does not apply to the Independent Post and Telecommunications Authority of the Netherlands, as there is the slight difference of non-interference with individual cases but a ministerial involvement in members' nomination and budget approval.

Convergence is another relevant topic which makes Italy a stimulating case, as described by Maria Stella Righettini, Giorgia Nesti, and Claudia Padovani in the Italian report.

The analysis of each country report raises several questions that need clarification and deeper reflection. The Portuguese case, for instance, introduces a premise related to the importance of the media regulatory body in the national legal framework. Actually, the Portuguese state media regulatory entity is enshrined in the Constitution of the Republic, which is unusual. The Portuguese report, written by Helena Sousa and Mariana Lameiras, it is emphasized the role of the ERC in press regulation, which is not usually verified in other countries, as the most common option is to place it under the supervision of another different body (as it happens in Ireland, with the Press Council). Moreover, it is also mentioned that legal mechanisms to ensure compliance with the ERC's decisions are not proportional to competences it is supposed to perform.

Last but not least, Alessandro D'Arma describes in detail the regulatory body of the United Kingdom, the Office of Communications (OFCOM), giving an overview on its duties according to

legal prescriptions as well as its enforcement mechanisms, having dealt with over twenty thousand complaints in the biennium 2011/2012.

We are therefore proposing a journey through present-day media regulatory bodies in thirteen different national contexts. We believe that the model we have collectively constructed can operate as a map that can help us reading the empirical realities.