Mass media and media policy in Western Europe

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The 'new media', and broadcasting deregulation in Western Europe

This chapter explores the Europe-wide adoption in recent years of national broadcasting policies leading away from the established public-service paradigm described in the last chapter towards a multi-channel, marketised broadcasting model which many anticipate will more and more resemble that of the United States. This particular prospect has engendered both enthusiasm and apprehension. Whatever the preference, though, it is increasingly generally recognised that the kind of 'hands-on' public policy control of broadcasting customarily exercised in Europe, is being eroded by the 'new media' revolution, part of the wider technology-induced 'information revolution'.

From broadcasting's earliest days, as seen already, policies have been shaped by a complex mixture of economic, technological and squarely political factors. However, the balance between these various factors has undergone a significant change. The last chapter described how, quite in contrast to the press sector, West European broadcasting had for most of its existence been extensively shaped by public policy and regulation. The cultural and political arguments in favour of public-service principles are still valid; indeed, there remain sources of considerable political support for these principles. However, observably, for some years now regulation has tended increasingly to follow technological and market developments. The trend of public policies has been deregulatory even when this was not the intention. Moreover, the scope for distinctive national regulatory structures is now measurably weakened by the homogenising impact of an internationalisation of media markets. All this has led to the development being described as a 'paradigmatic shift' (Hoffmann–Riem, 1986). This and the following chapters will describe how this paradigmatic shift has involved:

1. a trend towards the abolition of the public-service monopoly; the opening of the regulatory gates to new private commercial entrants to the sector (a key feature of deregulation);
2. the waiving of public-service obligations for the new commercial sector; or the imposition of minimal obligations that do not conflict with economic requirements (another key feature of deregulation);
3. a crisis of the effectiveness of regulation as a result of new opportunities to evade or circumvent national regulation (a third, in policy terms involuntary, feature of deregulation);
4. the rivalling of the public-service doctrine by notions of 'consumer sovereignty' – the viewer as consumer rather than as citizen – and the primacy of the 'free market';
5. following on from this, a 'commodification' of broadcasting (with programmes viewed increasingly as marketable products, programme libraries seen as commercial assets, etc.). In general, a tendency to see broadcasting as an economic sector like any other;
6. and finally, to an extent varying between countries, a questioning of the future of public-service broadcasting, its legitimacy, its future funding, its place and orientation within the new paradigm, etc.

Generally, broadcasting has come to be treated increasingly as an industry or a sphere of commercial enterprise. Confronted by new competition for advertising, compelled to justify continuance of their basic licence fee income, the public broadcasters have faced a harsh dilemma: to continue with their traditional practices or to vie with their private competitors in running 'popular' programming. Governments have not always been very supportive. Calling for efficiency gains, they have allowed licence fee income to stagnate or to diminish in real terms while pegging the amount, if any, that public broadcasters can draw from advertising. As will be seen, the public-service broadcasters have embraced, albeit to varying degrees, more commercial standards and practices. In France there has even occurred considerable privatisation of the public-service broadcasting system. On the other hand, the process and extent of deregulation has varied significantly between countries. Moreover, it has produced some unintended consequences. Policy makers are still climbing a learning curve. Before considering these important matters, it is important to consider those factors that have nevertheless given clear shape to this paradigatic shift. The main *imperatives* driving policy in this new direction have been threefold: ideological, technological and economic. The balance between them has varied from national case to case.

The ideological challenge to the public-service monopoly

As seen, the traditional view in Western Europe stressed the cultural function of broadcasting. This underpinned the argument that the broadcasting sector should be the preserve of public-service broadcasters. Strict public-service regulation was required to ensure that broadcasting performed its special social and cultural functions. However, the 1980s witnessed the arrival in positions of power, or at least the growing influence, of ideological radicals on the business orientated political Right in Europe. These were Thatcherite conservatives, the neo-liberal faction of Christian Democratic parties, Gaullist neo-liberals, and continental Europe's more right-wing Liberal parties ('Thatcherite' in their economic doctrine). Giving vocal support to the sectional interests of important industrial and commercial lobbies (see later, pp. 172–176), the free market radicals vigorously promoted an economistic counter-viewpoint to the public-service ethos. They argued in favour of treating broadcasting as a market that ideally should be freed of all but minimal regulation. These free marketeers protested the debilitating effects of public regulation and state intervention. Proponents of deregulation and economic liberalisation, they marshalled a number of coherent intellectual objections to the public-service paradigm (in particular see Veljanovski, 1989).

The marketisation of broadcasting, these Right-wing libertarians argued, would free the viewer from the old fashioned moral paternalism of 'nanny state' broadcasting and deliver genuine consumer sovereignty in its place. Consumer choice, expressed as audience preferences, should therefore replace the regulated media. The industry, free to pursue profits in a much more competitive market for audiences, would assuredly respond to popular preferences. Accordingly, the market itself was regarded as an adequate regulator in the public interest. It would provide a new external pluralism of channels, in the place of the old 'bureaucratically' manufactured internal pluralism. Indeed, the market was seen as a much more neutral and efficient regulator than any state or para-public agency. The latters' interventions were viewed, from this perspective, as being excessively prone to capture by partisan interests and not responsive enough to public demands. Political parties and organised interests were held to have exercised, all too often, an unhealthy degree of influence over public-service broadcasters and their regulatory bodies. As the preceding pages have described, there was some foundation to this particular criticism (Brittan, 1989).

According to this perspective, the communication needs of individual media consumers were inadequately served by the public broadcasters. Consumers were relatively incapable of voicing their preferences through bureaucratic channels. The free market, it was argued, would provide these consumers with a near perfect mechanism for signalling their preferences directly to the service providers. The latter, so long as they were market players, would respond immediately to these signals. The public-service model's other major inefficiency, so the argument went, was its alleged aversion to innovation. Once marketised, however, the broadcasting sector would become imbued with the entrepreneurial spirit which the public-service broadcasters were said to lack; further, new technologies would be more quickly diffused. Free enterprise would see to it that exciting new opportunities for providing consumer satisfaction were sufficiently exploited. Moreover, the disciplines of the market would compel broadcasters to reduce their alleged top-heavy bureaucracies and drop their restrictive practices (Thatcher's famous 'Spanish customs'). Broadcasters would be forced to become cost-effective. This, it was argued, would free up resources for the wide range of more innovative services and programmes that could be provided for by a proliferation of new media delivery systems that were becoming available (see next section). Moreover, small producers, unencumbered by the large bureaucracies of the broadcasting monopolies, would be given a fair crack of the whip. Media pluralism would be increased.

Against all this, the defenders of the public-service paradigm argued that the commercial principle was quite incapable of catering to the full diversity of public informational requirements. The free market was definitely not conducive to the supply of quality programming. In competitive markets, quality drama would be too

'cost-inefficient' to produce in significant measure any more. In the fierce struggle to maximise audiences, informational and educative programming would be both quantitatively reduced and qualitatively transformed into 'infotainment'. Public-service news values would be debased. The market would badly serve the need for the culturally diverse, 'social responsibility' kind of programming provided in the past. Many minorities would be ill catered for by the 'majoritarian' commercial imperative of audience maximisation. The regions, ethnic and religious communities, social and political minorities, and so on, would get short shrift from the market. The old and the poor would be positively disadvantaged when relatively expensive pay-television services attracted film and sports television rights away from the universally available mainstream public channels. All in all, this critical view deplored the neo-liberals' tendency to see the audience as as a collection of individual consumers rather than as citizens in society. Pointing to the press sector the advocates of retaining the public service model expressed disquiet, too, at the new scope for proprietorial influence on privately owned media operating within a commercial and unregulated framework. At risk were basic journalistic freedoms and citizens' genuine information requirements rather than simply their tastes. Threatened were the principles of universality, broad and balanced coverage of issues, independence from commercial influences, respect for diverse cultural needs, and so forth. These latter values could be said, reasonably, to underpin the humanistic principle of freedom of information no less than the individual proprietor's simple freedom to disseminate opinion. Such values lay at the core of broadcasting conceived as a profession and as a public service, rather than as a mere industry or arena of commercial exchange. These fundamental public-service values, the defenders of the public-service paradigm argued, would be at great risk of being swept away. Technological factors, however, seemed powerfully to strengthen the case of the deregulators and 'free market' liberalisers. In the age of new media technologies that provided for a considerable multiplication of programme delivery systems, the public-service monopoly (or duopoly) became exceedingly difficult to justify (though it did not follow that public-service regulation was now redundant). The main catalyst for change, giving practical force to the liberalisers' arguments, was undoubtedly the development of new technologies, especially the 'new media' of cable and satellite.

The technological challenge: 'new media'

In addition to the cultural argument, the public-service monopoly in Europe had always been underpinned by the 'scarcity of frequencies' rationale. Indeed putatively this had been its primary rationale (though some point out that it was in fact more an excuse for politically motivated regulation). However, during the 1980s the expansion of new media – the proliferation of cable systems combined with the arrival in a big way of transfrontier satellite broadcasting – was progressively removing this particular foundation of the public-service monopoly paradigm. It is important to note too that new hertzian (terrestrial or 'off air') frequencies have been made available as technological progress has allowed for a more efficient usage of the airwaves. It is also worth a mention that a further expansion of spectrum usage now beckons with the prospect of signal digitalisation and particularly digital compression (see the Conclusion, pp. 301–303). In the main, though, satellite broadcasting – including direct-to-home (DTH) broadcasting, but beyond Britain so far mainly satellite-to-cable relay – has already registered an important impact, in that it has provided for transfrontier broadcasting and therefore undermined the effectiveness of national regulation.

During the 1980s, the number of European cable television channels measurably increased. Most of northern Europe is now well equipped (see Table 5.1). There are two reasons for this. Firstly, some countries were already densely cabled. This was the legacy of an earlier era when cable was deemed to be highly appropriate for the relay of multiple public-service channels in densely populated small but industrially advanced countries like the Benelux countries and Switzerland. Secondly, often the state intervened energetically during the 1980s, partly for reasons of industrial policy rather than media policy, in order to provide new cable infrastructure. Cable was seen as an essential component of the 'information age'; it was widely viewed as vital to the development of a modern information technology and telecommunications industrial sector. Another reason was the desire of policy makers simply to promote a multi-channel television revolution. In France policy was driven by a tremendous technological and industrial ambition: the Socialists' early programme (during the radical early years of office) was described in humour as 'nationalisation plus fibre optic cable'. Helmut Kohl's Christian Democrat-led coalition, by contrast, prioritised speed of cabling over the modernity of the chosen cable technology (for a full discussion of the technological issues, see Dyson and Humphreys, 1988).

Table 5.1 The growth of cable penetration

Country	*% of all TV homes 1987*	*Homes connected in 1987 (thousands)*	*% of all TV homes 1992*	*Homes connected in 1992 (thousands)*
Austria	16.2	450	29.7	878
Belgium	84.3	2,950	92	3,450
Denmark	19.0	399	50.0	1,100
Finland	21.0	400	42.0	800
France	0.5[a]	100	4.5	927
Germany	13.7	3,520	32.5	10,844
Ireland	31.2	299	40	400
Lux'bourg	66.0	100	90.0	117
Netherl.	70.4	3,801	87.0	5,225
Norway	28.0	420	36.3	550
Sweden	13.3	438	50.2	1,800
Switzerl.	67.3	1,641	76.6	1,865
UK	1.2	260	2.5	552[b]

Note:
Southern Europe hardly had any cable systems at all.
[a] Lange and Renaud made a miscalculation of the % here. They give 100,000 cable homes of a total of 19.6 million TV homes, as 5%.
[b] This is 'new build', genuinely 'multi-channel' cable. As opposed to 'rediffusion' cable limited to a very small number of channels. Also the source describes it as a 'minimum estimate'.
Sources: 1987 figures calculated from data in A. Lange and J.L. Renaud, *The Future of the European Audiovisual Industry*, Manchester: European Institute for the Media, 1989, p. 17. 1992 figures directly from *Cable & Satellite Yearbook '93, London: 21st century Publishing, 1994, pp. 70–75.*

Whatever the case, only a few countries were still hardly cabled at all by the end of the decade; these were notably the more backward countries of southern Europe though in France and Britain, as well, cable laying proceeded far slower than planned (for an explanation of the problems, see Dyson and Humphreys, 1988). France's state-led

French cable programme proved to be technologically too ambitious and was mismanaged; in Britain cable received no state funding and by the late 1980s cable companies faced serious competition from Rupert Murdoch's commercial satellite channels (broadcasting direct-to-home). Despite these qualifications, multi-channel cable television was a key factor for the remarkable expansion of commercial broadcasting in a large area of northern Europe, including the major German market. By the mid-1990s cable was taking off in Britain and France. Even countries that by the end of the 1980s still had not yet officially liberalised their broadcasting systems were tolerating the re-transmission of a large number of foreign services, including commercial ones, on their cable systems. By 1990 twelve were available on Austrian cable, between twelve and twenty on Swiss cable, and in Denmark cabled homes were served by between twenty-five and thirty (Brants and Siune, 1992, p. 103).

Satellite broadcasting

A key factor in the paradigm change towards a marketised broadcasting system in Europe has been the deployment for broadcasting purposes of three generations of satellite. The oldest are the so-called low-powered satellites – these being relatively simple telecommunications satellites – of Eutelsat and Intelsat (European and international satellite organisations respectively). These have been capable only of 'point-to-point' transmission, which means that their programmes have been up-linked from ground stations and then beamed down again for re-transmission into Europe's infrastructure of cable systems or else to earth stations for low-power terrestrial relay. Despite these satellites' originally rather limited technical capability, the rapid expansion of cable systems keen to relay their programmes, meant that they made an early contribution to a significant expansion of Europe's commercial broadcasting markets.

The broadcasting revolution already under way, a second type of high-powered satellite was developed during the 1980s specifically for direct broadcasting by satellite (DBS) (now usually referred to as 'direct to home' transmission – DTH), to small household dish antennae of the kind that have now become a very familiar sight in the United Kingdom. These satellites did not count as conventional telecommunications satellites and consequently their technical regulation fell under a rather special regime. Concerned to pre-empt the risk of anarchy and congestion of the air-waves that appeared to be promised by direct broadcasting from space, as early as 1977 the World Administrative Radio Conference (WARC) – organised by the International Telecommunications Union (ITU) based in Geneva – had assigned to each European country its own orbital position and frequencies for five channels per country. At the time, DBS had been expected to become a complementary means of providing broadcasting capacity to national territories. The latter point is an important one. WARC 77's intention was that DBS would provide services that would mainly be confined to specific national reception areas. This, it had been then expected, would enable the services to be regulated nationally in accordance with the traditional requirements and customs of national cultural sovereignty in broadcasting affairs. However, there were two problems with this, both of which illustrate graphically how technical progress has a habit of outrunning regulation.

Firstly, the elliptical shape of the 'footprints' of these DBS satellites created a *de facto* situation of considerable 'overspill'. Moreover, very soon, improved transmission and reception equipment meant that this overspill was very much greater than WARC 77 had anticipated. Like modern cable systems, construction of DBS satellites was perceived for a while during the early to mid-1980s to have high industrial and commercial promise. Ambitious DBS satellite construction plans were unveiled in a number of countries including France, West Germany and Luxembourg. For the former two, industrial policy was undoubtedly the main motive (there was expected to be a world market for such satellites). For Luxembourg the attraction was rather the opportunity to exploit the increased overspill potential of DBS satellites in order to offer private commercial media investors access to internationalised broadcasting markets in Europe.

Secondly, however, it soon became clear that the main challenge would come instead from a third category of satellite, namely medium-powered satellites. They were in essence simply more powerful telecommunications satellites. These medium-powered satellites could still be used to feed cable systems and for terrestrial relay, but they could also provide television direct-to-home (DTH). Thanks to related improvements in reception equipment, viewers would be able to receive these services with dish aerials no larger than those required to receive the signals from the 'custom-built' DBS satellites. WARC 77 had made no provision for these medium-powered satellites; consequently, they faced no special international restriction. (They still had to be coordinated with Eutelsat, so there was still scope for inter-governmental bickering – see below). Not only were they cheaper to develop and deploy than high-powered DBS satellites, they were actually capable of providing more channels. Therefore, they made it certain that a rapid proliferation of DTH broadcasting would occur. Such was their perceived promise that both the French and West German telecommunications authorities soon decided to sponsor their development alongside their high-powered DBS satellite construction programmes.

More significantly, the Luxembourg government decided to shelve earlier plans for development of a high-powered satellite. (Part of the reason was that massive French pressure had been exerted against this project through the French stake in the Compagnie Luxembourgeoise de Télédiffusion (CLT) which was originally to have developed the service). In the interests of stealing a march on competitors, a medium-powered satellite was bought 'off the shelf' from the Americans. Indicative of the high stakes attached to getting to the market first, there then followed a complex struggle as rival German and French interests sought through Eutelsat to obstruct the Luxembourg medium-powered satellite project. This battle won, the Luxembourg satellite, called 'Astra' immediately proceeded to revolutionise the European broadcasting landscape. The first Astra satellite had sixteen channels, a second quickly brought the number to thirty-two, and later a third increased it to fifty (two more were planned). Their shared footprint ranged widely over Western Europe, including the British isles. They soon attracted a full range of channels, some of them general entertainment services, others more specialist (see next chapter). Astra's operating company, the *Société Européenne de Satellites* (SES), was backed by an impressive line-up of German, Belgian and Luxembourg financial interests, and the Luxembourg authorities. The latter's policy always had been to attract media investment through a solicitous policy of liberal regulation. The Astra satellites, with their pan-European reach and multinational financial backing, complemented the impressive expansion of Luxembourg's indigenous broadcasting multinational, the CLT, to confirm the small country's new strategic centrality to European broadcasting'- development in the 1980s and 1990s (Dyson, 1990, pp. 125–147).

The opportunities for circumvention of national regulation

Satellite broadcasting, combined with the expansion of cable outlets for the new services, ushered in a new age of transfrontier broadcasting in Europe. Of course, there had always existed some terrestrial overspill in Western Europe. Belgium, for instance, had always been exposed to television from France; Austrians had always received television from neighbouring Germany. However uncomfortable this was for these smaller countries' indigenous broadcasting and advertising interests, such incursions had been generally contained within the old paradigm of public-service broadcasting. For one thing, there had been very few private commercial channels around (only those from Luxembourg and Britain and the latter were public-service by regulation). Most overspill, and most pre-existing cable services, had been public-service fare from nearby countries. The rapid expansion of satellite channels had a tremendous impact. It removed, effectively, all practical constraints on the prompt development of private commercial channels. The Astra satellites attracted the lion's share of the distribution business; from their relatively unregulated centre of operation they could now access the whole of Western Europe. Commercial interest could not fail to be stimulated by this kind of access to wider international markets.

Europe's commercial broadcasting markets were, in fact, still largely dependent on the cable sector. Even by the early 1990s, the impact of direct-to-home satellite broadcasting was still very limited in most countries of Western Europe. The total number of homes equipped with a satellite receiving dish was well over eight million by 1992, and growing fast, but this was still a small fraction of Western Europe's population. Moreover, these DTH households were largely accounted for by Britain (14 per cent of television homes), Germany (11.5 per cent) and Austria (17 per cent). Elsewhere still only a low percentage of television homes were equipped (according to the *Cable and Satellite Yearbook 1992*). In Britain, the popularity of DTH could be explained by the slow growth of multi-channel cable television; and in turn it helped to retard the latter's growth. Elsewhere the availability of cable, and increasingly of new terrestrial services as well, was a distinct impediment to the diffusion of this means of receiving television. Nevertheless, this should most definitely not be taken to diminish the trans-national impact of satellite broadcasting. Quite simply, satellite broadcasting presented the opportunity for circumvention of overstrict regulation. New commercial entrepreneurs could up-link from the least regulated countries in Europe (e.g. Luxembourg) and either beam into suitably equipped DTH homes or else access a very much larger and fast growing European cable market (Dyson and Humphreys, 1989).

Operating from the most favourable regulatory base, they could access more strictly regulated markets. Thus, the West German media conglomerate Bertelsmann joined up with Luxembourg's CLT to launch the German-language RTL Plus satellite channel operating out of the relatively unregulated Duchy. Later the international press baron Rupert Murdoch launched his English-language Sky television services on Luxembourg's Astra satellite, thereby escaping more restrictive British broadcasting regulation that would have debarred him from taking more than a 20 per cent stake in a domestic broadcasting operation. These cases of circumvention of national broadcasting regulations established a precedent which helped to undermine the case for continuing to regulate national markets according to strict criteria. To do so, it was now clear, carried the danger of a flight of media investment to operational centres with more favourably lax regulatory environments. (Significantly, once a suitably deregulated environment was produced in Germany, RTL Plus transferred 'home' to Bertelsmann's headquarters in Gutersloh, Lower Saxony). Thus, cable and satellite broadcasting together rendered old notions of broadcasting sovereignty distinctly threadbare for large and small states alike. This set in train a dynamic towards what might be referred to as 'competitive deregulation' (Dyson and Humphreys 1986 and 1989). Once certain countries started to go down the road of deregulation and marketisation of their national broadcasting systems – and as we shall see a number deliberately pursued this option – their neighbours were unavoidably faced with often unwelcome commercial pressures of a new quality and order of magnitude to do exactly the same.

The economic stakes

Behind the decision by governments to pursue deregulation there had also been a number of more immediate economic imperatives and lobbies. Three factors were particularly important. Firstly, governments were concerned to promote the information technology

revolution. Secondly, they became increasingly aware of the media's importance for inward investment and equally aware of the threat of disinvestment. The media became an important consideration for what, in economic jargon, is called 'locational policy'. Thirdly, governments were lobbied hard by the advertising industry which argued persuasively that an expansion of advertising opportunities in the field of broadcasting, would lead to an increase in the latter industry's production base and improve its trade balance.

The information technology revolution

During the late 1970s and early 1980s, governments had become keenly aware of the information technology (IT) revolution. To explore the issues raised, in particular how IT policies might be developed to promote national economic goals, they had established official commissions of inquiry. Generally composed of technocrats and industry experts, these commissions had produced a number of landmark reports which commonly urged the quick adoption of the new communication technologies. The 'wired society', they made clear, promised to register a very extensive economic impact across the economy. There were some differences of emphasis, the French stressing the role for generous state support, the British favouring an industry-led policy. In Germany measures of technology assessment in the form of exploratory pilot projects were also recommended, to explore the social consequences of the new media. Generally, though, the recommendations reflected the industrial and commercial interests of the electronics and telecommunications industries. These latter interests had formed very influential policy networks with technocrats in the world of officialdom. Political decision-makers were thus led by technocratic hype, and a good measure of industrialist pressure, to embark upon plans to develop their quite ambitious cable and satellite programmes as part of a much wider package of IT policies. The most salient point here is, diffusion of these new technologies was to be 'entertainment led'. Logically, this required deregulation of the rules for the provision of new services (i.e. the 'broadcasting' aspect).

Locational policy

Technological and economic developments in the media sector meanwhile served to increase awareness among public policy makers that the media themselves had acquired a wholly new economic significance. Industrial policy (e.g. the development of DBS satellites and cable systems) was only one aspect of the much broader economic stakes of new media development. The media embraced very important commercial interests; global developments were already beginning to see the rise of international conglomerates which straddled broadcasting, news and information services, publishing, film and video, and other communications forms. In modern 'service societies' the media *per se* had become a very important field of commercial economic activity. To promote a strong and dynamic commercial media sector was, therefore, a matter of growing economic concern to official policy makers. In the increasingly internation-alised competition to attract media investment, national politicians disposed of a major instrument which might be deployed in the cause of locational policy: namely, regulatory policy. Unlike financial inducements to investors, this instrument was without economic cost. (Any costs were likely to be more of a cultural nature). Literally no financial burden fell upon state exchequers in matters such as the allocation of franchises to new commercial broadcasters and the loosening of rules governing their operations. Of course, all things being equal, the new investors were most likely to be attracted to locations where the regulatory constraints were suitably lax (Hoffmann-Riem, 1989).

The advertising lobby

A particularly important economic lobby attracted by the prospect of more commercialism was the advertising industry. Abolition of the public broadcasting monopoly situation would present much scope for growth of broadcast advertising in Western Europe. National restrictions had meant that there was much unfulfilled demand for television advertising. During the 1980s the advertising lobby became very proactive at both the national and European levels. In 1980 the advertising and commercial media interests together created the European Advertising Tripartite (EAT) as a joint pressure group to promote their case for a free market in advertising in Europe. The EAT was largely the joint initiative of the International Union of Advertisers Associations (IUAA) and the European Association of Advertising Agencies (EAAA). It also embraced the

Communauté des Associations des Editeurs de Journaux (CAEJ), a Eurolobby of national and provincial newspaper publishers' associations in the EC; and it included the European Group of Television Advertisers (EGTA). It operated alongside already very powerful national advertising lobbies – like the British Advertising Association (AA) and the Institute of Advertising Practitioners (IAP) or the German *Zentralausschuss der Werbewirtschaft* (ZAW). As we shall see, the advertisers were keenly supportive of an EC initiative to create a single market in broadcasting but equally fierce in their opposition to any EC imposition of restrictions (see Chapter 8). Advertisers welcomed the prospect of an abolition of the public-service monopoly paradigm. Hitherto the public service monopoly had precluded competition among broadcasters to attract advertisers. The abolition of this broadcaster monopoly would introduce this competition. The effect would be to reverse the balance of relations between advertisers and broadcasters. Competition between broadcasters for advertising revenue would bid down the prices they were able to charge the advertisers. In a marketised broadcasting system, the advertisers and advertising agencies could expect to gain the whip hand at last. (For an informative overview of the European-level mobilisation of the advertising lobby in the 1980s see Mattelart and Palmer, 1991.)

The advertising lobby was, therefore, formidably organised. It also disposed of a powerful resource: industry information. It was able to lobby so effectively because it could supply the data that policy makers needed (Mattelart and Palmer, 1991, p. 554–555). In order to support their case, the advertisers pointed to the benefits that broadcasters could expect to gain from the expansion of broadcast advertising that would follow upon marketisation. In particular, they pointed to the way marketisation would measurably increase overall the resources flowing to the broadcasting industry. (An increase could be anticipated, they argued, despite the lower rates that the broadcasters would henceforth be compelled to charge in a more competitive market.) This postulated infusion of resources would be able to fund expanded production both nationally and at the European level, helping thereby to boost the balance of trade in broadcast programmes. Naturally, the force of this argument was not lost on media policy makers who were bound to be interested in ways to fund expansion of production that did not require the unpopular raising of additional public funds.

The media policy actors: the coalitions for and against change

A whole host of economic actors were enticed by the prospect of a media revolution. Their conjunction gave them an uncommonly powerful weight. Along with the electronics and advertising industries, there were the publishers of the press, the cable television lobby, independent producers, broadcasting facilities companies and, of course, financial interests with an eye for new investment opportunities. They shared a common aim: the opening up of the public broadcasting monopoly and the establishment of a regulatory framework that would be favourable to commercial enterprise. Governments, concerned as ever to promote national economic success, were naturally receptive to their pleas for deregulation. At the same time, the EC Commission too became concerned about the future competitiveness of Europe's audiovisual and electronics industries *vis à vis* US and Japanese competition. As Chapter 8 describes, from the mid-1980s onwards the Commission lent its considerable weight to the argument for a liberalisation of Europe's internal market for broadcast services. Its prime motive was to render European broadcasting and ancillary interests, viewed as economic actors, more efficient and competitive in global markets. At the domestic level, the above-mentioned business lobbies combined with Europe's parties of the Right especially where these embraced neo-liberal ideas (this included continental Europe's business-orientated Liberals) to form a powerful coalition for change.

These parties of the Right were sometimes inspired by more than free market doctrine and economic logic, or their closeness to business and susceptibility to powerful lobbies. The marketising broadcasting policies of both Thatcher's Conservatives and Kohl's Christian Democratic-Liberal coalition, coming to power after a fairly lengthy period in opposition, were motivated as well by a concern to 'outflank' public-service broadcasters which they perceived as having been consistently biased against them (Humphreys, 1991, p. 203). Similarly, the Belgian Right-wing parties ran a 'major campaign' against public-service broadcasting accusing it of presenting a 'biased picture of the world.' This campaign of the Belgian Right undermined support for the public-service monopoly that had long been unquestioned in that small country (Burgelman, 1986, p. 187). In the French case, this kind of political motivation helped to explain why the French Socialists – rather out of step with their counterparts elsewhere – were most enthusiastic about abolishing the state's broadcasting monopoly. For years it had been biased against them and they wanted to ensure – through 'liberating' the sector – that this could not be repeated in the future (Dyson and Humphreys, 1988 and 1989). The fact that governments thus motivated came to power in Britain, Germany and France almost simultaneously at the beginning of the 1980s, was an important factor for the sudden reversal – across a large area of Western Europe – of policies that for decades had sustained the public-service monopoly; policies, it might be added, that had even obstructed new media development during the 1970s.

National Posts and Telecommunications authorities (PTTs) – and their interest in protecting their monopoly or dominant market position in telecommunications provision – played a key role too. In the past, PTTs, responsible or co-responsible with broadcasters for transmission, had been highly influential in technical matters but traditionally they had not trespassed into other spheres of media policy. However, during the 1980s the fact that the PTTs were keenly interested in the introduction of the new technologies – precisely in order to strengthen their dominant position in the telecommunications sector – meant that they too became objectively part of the coalition for change. In France the Direction Générale des Télécommunications (now called France Télécom) was at the head of the policy coalition pushing for the speedy introduction of the new media and the requisite relaxation of public-service regulations.

In Germany the Bundespost's (now Deutsche Telekom's) control of technical resources – cable, satellite, and terrestrial frequencies – was used by central government actually in order to by-pass *Länder* control of broadcasting, to launch a voluntaristic national 'broadcasting revolution'.

Facing this powerful coalition for change was a counterforce resisting radical change; or at the very least seeking to temper it with a strong commitment to public-service requirements (see Table 5.2). This latter coalition encompassed the public-service broadcasters themselves, the broadcasting and journalists associations and unions, and generally Europe's Social Democratic parties. In Germany, the SPD was divided between proponents of fundamental and 'constructive' opposition; the latter prevailing once it was recognised that powerful regional (*Land*) economic interests stood to lose out if the SPD persisted in adhering to overstrict regulation in the *Länder* it governed. (In other words, considerations of regional 'locational policy' swayed SPD policy). The French Socialists hoped to introduce a 'controlled deregulation'. Europe's Christian Democrats were often divided between their neo-liberal and their 'moral conservative' wings. In Germany, the former prevailed. In the Netherlands and Austria, on the other hand, Christian Democrats were sceptical about deregulation (Dyson and Humphreys, 1989, p. 147–148).

Table 5.2 The deregulation of broadcasting: the coalitions of actors

The pro-market actors	*Their interests*
The electronics industry	To exploit markets for new TV sets; pay-TV decoders; satellite reception equipment, etc.
The cable and satellite television lobbies	Freedom to provide commercial services
PTTs	To develop and diffuse new media technologies; to maintain monopoly or dominant market position in telecoms provision
Newspaper publishers	To diversify media operations; to pre-empt further competition for advertising revenue[a]
Advertisers	To gain outlets and strengthen market position
Governments	To promote the economy; to attract media investors
Parties of the Right	Pursuit of neo-liberal agenda; promotion of business interests
European Commission	To liberalise European markets
Public-service supporters	*Their interests*
Public-service broadcasters	Self-defence; continuance of public resourcing, etc.
Unions	Protection of employment and conditions of employment
Parties of the left	Promotion of public-service ethos and communitarian values; promotion of labour interests

Note:
[a] Not universally the case. In some countries the press remained a force resisting commercial broadcasting.

Technological determinism? What scope for 'politics'?

The coalitions of actors and their logics pro or contra change were fairly predictable across Europe, but what about the policy process? Deregulation did not follow a uniform path across Europe, far from it! Just as the traditional characteristics of broadcasting systems varied considerably across Europe, so too did the policy processes by which marketisation was introduced in the 1980s. Technology and economic factors were factors for policy convergence – towards deregulation and marketisation. Differences could be explained by political factors: different political and regulatory traditions, different ideological predispositions of governments, different patterns of institutional constraint on governments, and so forth. The enduring weight of different media traditions was reflected in the German concern to ensure continued respect for 'safe' traditions of public service. In France, the ideology of *indépendance nationale* made cultural 'sovereignty' a key theme. Differences could be explained, further, by the different distribution of power resources in national media policy communities. In Britain, for instance, the IBA – later the ITC – was able to draw on reserves of independence and high social status in order to tone down the implementation of certain Thatcherite policies. Finally, implementation problems meant that policy outcomes did not always turn out as planned. In France, for instance, media policy was afflicted by inter-ministerial disputes and administrative rivalries resulting in a proliferation of initiatives, each backed by different administrative and political sponsors – the cable plan, duplicate satellite projects, new off-air channels, privatisation. Resources were squandered, competition between rival projects became destructively fierce, and certain technological initiatives were disappointing failures (Minc, 1993, pp. 40–54; Dyson and Humphreys, 1986, 1988 and 1989).

Above all, it is important to realise that the technological factor was not even a necessary condition for deregulation. In Britain and France – because of policy implementation problems – the new media were not diffused nearly as fast as had been expected in the early 1980s, yet governments still introduced some radical marketising policies. In both cases the technological factor helped set the new agenda of broadcasting policy, but in the Italian case – and in other Southern European countries – the new media played virtually no role at all. Yet marketisation occurred all the same through the use of local frequencies for commercial television services (linked up to form national networks). In Germany, by contrast again, the new media were adopted and diffused very rapidly and extensively, yet here deregulation was moderated significantly by public policy. Clearly, technology does not of itself determine the direction of its social application and of the public regulation of its consequences. Still less does technology compel governments to treat broadcasting franchises as something to be auctioned to the highest bidder (as occurred in Britain) or to privatise public service corporations (as occurred in France). Technology does not dictate that governments allow the concentration of private broadcasting interests overwhelmingly in the hands of one individual's concern (as occurred in Italy). These specific policies will now be examined.

The private sector ascendent: Luxembourg, Italy and France

Luxembourg

With respect to the patterns of broadcasting marketisation Europe can be broken down into distinct groups of countries. Luxembourg was already 'deregulated'. As early as 1931 its government had decided to encourage the growth of a commercial broadcasting industry by adopting a liberal regulatory approach that contrasted with the public service monopolies established elsewhere in Western Europe. By the 1990s, *Compagnie Luxembourgeoise de Télévision* (CLT), a long-time beneficiary of this liberal environment, had become one of Europe's leading media companies with stakes in production companies, radio and television channels (under the emblem of CLT's *RTL* subsidiary) in a number of European countries. Another beneficiary was *Société Européenne de Satellites* (SES), the private commercial company established in 1985 that already operated three Astra broadcasting satellites (and aimed to launch two more); these satellites made available to over fifty million European households no fewer than fifty television channels. Luxembourg was widely seen as a model of commercial freedom. Notably, advertising rules were lax.

Italy

Since the mid-1970s Italy also had come to present the picture of a

dramatically marketised system. The Italian case was widely referred to as a 'wild deregulation'. Very much a market driven affair from the outset, it was allowed to happen largely due to the characteristic immobilism of the country's politics. The actual trigger was a surprise 1976 ruling of Italy's Constitutional Court, declaring that while a public-service monopoly was necessary at the national level to ensure pluralism and impartiality, a monopoly was not called for at the local level. In the period leading up to this court ruling, RAI's monopoly had been increasingly challenged by a number of small local pirate stations. These had quickly become popular. In the words of Barile and Rao (1992, p. 263), the court appeared to have been 'influenced by developments in the broadcasting market'. The immediate consequence of the court's 1976 ruling was a very rapid proliferation of new private commercial radio and television stations. Several leading publishing groups – Rizzoli, Mondadori and Rusconi – diversified into television and, in disregard of the court's restriction, organised many of these local stations into national broadcasting networks. Once again the court intervened; again it appeared to follow the market, now ruling in 1981 that pluralism could be ensured at the local level even if private commercial networks were allowed to operate nationally. The court qualified this, however, by making the first of many calls for national parliamentary legislation to prevent media concentration. In fact, from 1975 onwards the Italian parliament had debated broadcasting bills but party dissension meant that no rules were produced (Mazzoleni, 1991, p. 166). By 1984 Silvio Berlusconi's Fininvest company had taken over the networks owned by the major publishing groups and thereby acquired a virtual monopoly of Italy's private broadcasting sector. His Fininvest conglomerate now owned the three principal commercial networks, Rette 4, Canale 5 and Italia 1. By this time, these networks had between them achieved audience shares the size of the public sector RAI's, around 40–45 per cent. They were drawing well over three quarters of the advertising revenue going to the private sector. The rest, and about 10 per cent of the audience, was shared among hundreds of other local stations, and a few smaller networks. While the policy makers had been immobilised by their inability to reach compromises, the field of action had been left more or less entirely free for the economic actors – in particular, Berlusconi – to establish their own rules of the game. As will be seen (Chapter 6) Berlusconi's private commercial television empire amounted to a case of concentration of media ownership unparalleled elsewhere in Europe, even in the press sector. Programme schedules were geared to commercial goals. Reliance on cheap entertainment programming imports and home grown imitations thereof increased strikingly. The amount of advertising breaks on television, too, had increased very alarmingly. According to one source, advertising sometimes accounted for 20 per cent of the length of a feature film (Mattelart and Palmer, 1991, p. 549). When in 1990 the politicians were finally able to produce a Broadcasting Act commanding majority support, the parameters of the new broadcasting system had already been established by the market. The Act essentially legitimised market *faits accomplis* and was dubbed the 'Lex Berlusconi' (Wagner, 1994, p. 71). In Italy, therefore, the private sector had been unconstrained by default of public policy. In turn, the policy deficit resulted from the country's characteristically immobilist politics.

France

During the 1980s France, too, moved rapidly from a state monopoly to a predominantly marketised system. The Socialists, coming to power in 1981, actually made the first strides in this direction by legalising France's mushrooming pirate commercial radio sector, launching an ambitious cable plan and licensing two new national commercial channels (one of which did not long survive) as well as a highly successful pay-TV service. The Socialists had various motivations. An important aim was to free broadcasting once and for all from the state's iron grip. They themselves had long suffered from the way state television had been manipulated by Gaullists and Giscardians. Rather than imitate the Right's abuse of the medium they announced their intention to 'liberate' it. Another of the Socialists' aims was the desire to promote the development of the new technologies. Yet another was the ambition to stimulate the French audiovisual industry. Within the Socialist camp there was great concern to to control the process of liberalisation by all manner of regulatory means, including the imposition of 'made-in-France' programme quotas and provisions against the appearance of American-style networks of the kind that had appeared in Italy. However, broadcasting policy was all too soon hijacked by a presidential inner circle and driven by political expediency.

Operating on frequencies originally intended for a French 'Channel 4', a new pay-television channel called Canal Plus was launched in 1984 by the state-backed media and advertising company Havas. Against many Socialists' idealistic wishes, Canal Plus emerged from the drawing board as a highly commercial project masterminded and managed by a close presidential aide, André Rousselet. It was funded by subscription, granted a monopoly of advertising by sponsorship, and freed from all but minimal programme requirements – that is, apart from measures to protect the French cinema and to promote the French film industry. Next, in 1985, President Mitterrand stunned most Socialists by awarding a franchise for a national commercial entertainment channel, called La Cinq, again relatively free from public-service obligations, to a consortium of businessmen widely presumed to be friendly to the Socialists. This consortium included Italy's private television magnate, Silvio Berlusconi. Both of these high-handed acts by the powerful central executive seemed to fly in the face of the Socialists' avowed aim to control deregulation and to avoid the 'Italian scenario'. These decisions seemed motivated, far more, by a combination of presidential populism and the concern to award new channels to presidential allies in the run up to an election that the polls suggested would leave Mitterrand facing a parliament dominated by the Right. Indeed, briefly returned to power between 1986 and 1988, the Right dramatically escalated the process of marketisation by privatising France's principal public-service channel, TF1 – a most radical step that has not since been imitated anywhere else in Western Europe. Also privatised were SFP (the state programme production company), Agence Havas (owner of Canal Plus) and SOFIRAD (the state holding company that controlled the so-called 'peripheral' radio stations – see p. 124 above). Further, the Right turned the cable plan over to the private sector. The Socialists, back in office between 1988 and 1993, did not reverse any of these privatisations. By the end of the decade, therefore, France had one the most marketised broadcasting systems in Europe.

Policy-making had been characteristically *dirigiste* and voluntaristic. This feature reflected the central executive's comparatively unconstrained ability to act. That is not to suggest that policy encountered no implementation problems or produced no unintended outcomes. The cable plan encountered grave implementation problems. France's television satellite projects, too, were beaten to the market by Luxembourg's Astra satellite series. These were costly disappointments. The state had poured enormous sums into both its cable and satellite projects (Minc, 1993, pp. 40–54; Kuhn, 1995, Chapter 8). The more efficient use of the terrestrial frequency spectrum to launch several new commercial channels hardly amounted to the great technological leap forward that the Socialists had promised. The new channels' reliance on foreign programme imports, mainly American, seemed to run counter to the Socialists' promise to protect French culture against 'Coca Cola' television (Kuhn, 1995, p. 184). Further, the Right's privatisation of TFI in 1986 produced the most unintended of consequences; it strangled at birth La Cinq, France's other main commercial channel, and therefore produced a result that was contrary to the Right's aim of opening up the market even more than the Socialists had already achieved (see Chapter 7). For all this, the pattern of policy-making was a familiar one. The executive was able to exert its will to an extent unmatched elsewhere in Western Europe. That 'heroic' policy outcomes were not always as intended, was not at all unusual.

Marketisation of duopoly: Britain

Britain, of course, already had private broadcasters but the unique feature of the ITV/IBA system was its combination of commercial profit-seeking with very strict regulation by an external authority – the IBA – in the public interest. Indeed, the ITV companies had been more rule-bound than the self-regulating BBC. Moreover, British broadcasting policy had always been highly evolutionary and pragmatic. Changes – such as the introduction of ITV and later of Channel 4 – had typically emerged from 12-year policy cycles, punctuated by lengthy and exhaustive committees of inquiry (Tunstall, 1984, p. 315; also see Chapter 4). An abrupt change of policy style occurred with the arrival in office of Margaret Thatcher. Now a series of deregulatory steps followed in comparatively swift succession. The policy cycles were rather shorter than had been customary, consultation seemed to be less serious, policy appeared to be guided by a combination of Thatcherite doctrine and commercial interests. Prime Minister Thatcher herself made very clear in a number of famous pronouncements that she had very little time for the traditional British broadcasting 'Establishment'. She regarded the duopoly as the 'last bastion of restrictive practices'. Thatcherites generally were averse to the absence of competition in British broadcasting, disliking equally the BBC's monopoly of licence fee funding and the ITV companies' regional advertising monopolies. Thatcherites were also consumed by the belief that the broadcasters, in particular the BBC, were hostile to their political philosophy. At the same time, the duopoly came under attack from another quarter. During the 1980s Rupert Murdoch's papers conducted a press campaign against it, arguing for a more 'open less monolithic system' (*Times* leader of 15 January 1985).

First of all, the new media were deregulated by the Cable and Broadcasting Act of 1984 which created a new type of regulatory body, the Cable Authority. The latter's task was to supervise programmes only reactively and with a 'light touch'. Cable franchises were awarded in a rather informal manner. The Authority's explicit role of promoting the cable industry seemed to eclipse its regulatory function. Cable's subsequent failure to take off in Britain until the 1990s could not be explained by any over-strict regulation, far from it. Rather it resulted from the absence of the kind of state support to the cable sector that was available on the continent (this too reflected Thatcherite doctrine) and also from the competition provided by direct-to-home (DTH) satellite broadcasting in the shape of Rupert Murdoch's Sky TV (later BSkyB). Only when in 1990 the rules were further relaxed to allow British cable companies to provide telephone services did the purely market-driven industry start to attract major investment (mainly North American) and begin to register dynamic growth. All manner of implementation problems also dogged plans for a market-driven British broadcasting satellite. Again, no state support had been forthcoming. Therefore, the British DTH market was quickly dominated by Rupert Murdoch's 'off-shore' Sky TV operation (for details of failures of British new media policies see Negrine in Dyson and Humphreys, 1988).

Nothing symbolised the doctrinaire nature of Thatcherite broadcasting policy better than the ITV franchise 'auction'. This was the most radical component of the Broadcasting Act of 1990 which was largely designed to introduce more competition into the ITV/IBA sector. In the past, ITV franchises had been allocated by the IBA through a discretionary process that, though rather secretive, had prioritised quality programming. Proven quality performance had been an important factor for ITV companies' retention of franchises in successive rounds. The 1990 Act now ruled that these franchises should be 'auctioned' to whomsoever bid the most money in a 'blind' auction, a feature of the legislation that bore the unmistakeable imprint of the Treasury's overweening influence in British policy making as well as pure Thatcherite free market doctrine. However, the franchise auction aside, the 1990 Broadcasting Act turned out to be a more moderate piece of legislation than Thatcherites had originally intended. Rather than lift public-service obligations from the ITV companies, the Act included a quality threshold which the regulator – renamed the Independent Television Commission – had to take into account when choosing among the bidders in the franchise auction. Moreover, although commercial broadcasters were given more freedom to schedule programmes as they liked, they saw themselves required to continue to supply news and information, educational and local programming, and so forth. More significantly, the Act specified that Channel 4 should retain its special minorities and cultural mission (so too would the Welsh Fourth Channel S4C). Rather than be privatised as Thatcherites had intended, Channel 4 was to become a corporation governed by a board part composed of ITC appointees and part drawn from its management. It would have to earn its own keep through running its own advertising but the Act did provide for a financial 'safety net' in case its revenue, in operating commercially, should suffer a shortfall which would otherwise prevent it from fulfilling its special minority and cultural remit. The Act also gave a statutory basis to a Broadcasting Standards Council (originally set up in 1987) to monitor such matters as the portrayal of violence on television and to ensure the maintenance of standards of taste and decency. Last but not least, the Act retained the former IBA's rules against media concentration and cross-media ownership. The marketising impact of the 'auctioning' of broadcasting franchises and the lighter touch regulation of the ITV sector should not be underestimated. Nevertheless, the fact remained that the parliamentary process had taken the radical Thatcherite edge off the Bill. The principal moderating factors were the persistence of a strong vein of support for the public-service principle among British Conservatives in parliament; and the fact that the traditional broadcasting Establishment retained a very influential enclave of support within government, namely the Department of National Heritage, which actually drafted the legislation. (Previously the Home Office had also been sympathetic to the public-service broadcasters.) Also, Britain's broadcasters enjoyed comparatively high public esteem. This undoubtedly further limited the government's freedom to act.

For all this, though, the franchise auction would have been inconceivable before the days of Thatcherite majoritarianism.

As for the BBC, under Thatcher's premiership, the corporation came under much more direct pressure. Dependent upon the government for its licence fee, it was compelled to engage upon a stringent 'efficiency' drive. The introduction of an 'internal market' within the corporation, through Director General John Birt's controversial 'producer choice' system, symbolised the coming to the BBC of a new managerial ethos. 'Producer choice' encouraged producers to shop around within the BBC for the cheapest production facilities and even gave them the right to go outside the corporation if need be. Its implementation elevated internal accounting mechanisms and values to a new importance; ironically, it also entailed a measure of increased bureaucratisation. As far as programme production was concerned, it bore a close resemblance to the pattern of rationalisation (introduction of cost centres, etc.) that had been introduced into the ITV sector throughout the period surrounding the 1990 Act to make them 'lean and fit' for the more marketised and competitive era approaching.

To the Italian or French observer, the changes made to the British broadcasting system during the 1980s and early 1990s might reasonably have appeared quite incremental. Given the slow take off of the new media – apart from BSkyB – the duopoly continued to dominate the scene. Nevertheless, Thatcherism's legacy to the 1990s was very much a duopoly that now found itself operating in a more competitive climate. The duopoly itself had been marketised in subtle as well as not so subtle (the auction) ways. Moreover, the successful (re)advertisement of the Channel 5 franchise in 1994 attracted bids in 1995 from no fewer than four consortia backed by British and international investors. North American capital had meanwhile poured into British cable development and combined with BSkyB to provide programme services for cable systems. BSkyB itself was making large operating profits and being taken very seriously as a competitor by the traditional duopoly broadcasters. By 1995 one-fifth of British households were receiving BSkyB and other satellite and cable services. Finally, London had become a base for a number of 'off-shore' satellite television services aimed at European markets.

Germany: the 'dual system'. A new public/private balance?

In Germany, the new media were adopted and diffused very rapidly and extensively. Indeed, they were crucial to the success of German policies of marketisation. At the same time, the German policy process was characterised by complex political trade-offs. The policy process was complicated by the division of competences between the country's constituent *Länder*, which were constitutionally responsible for broadcasting policy, and the central federation, the *Bund*, which was responsible for telecommunications policy. During the 1980s the conservative CDU/CSU *Länder* and the CDU-controlled Bundespost (the national PTT) together promoted deregulation. However, the SPD controlled *Länder* initially resisted deregulation and obstructed any inter-*Land* progress towards new national policies for commercial broadcasting regulation (e.g. programme and ownership rules for national cable and satellite television channels). This is where the Bundespost's control of technical resources came into play. Under the direction of a CDU minister, the Bundespost simply ignored the inter-*Land* stalemate and proceeded with a highly voluntaristic programme of providing cable systems, satellite capacity and new terrestrial frequencies so that the new commercial broadcasters – which had been franchised and given operating bases in CDU/CSU controlled *Länder* – might access a national audience. Faced with this new reality, the SPD *Länder* resorted to another tactic: they appealed to the Federal Constitutional Court to safeguard the traditional public-service principles of German broadcasting regulation. In a major ruling of 1986 the court provided the basis for a subsequent inter-*Land* treaty providing for new national broadcasting rules. The outcome was the introduction of a dual system of broadcasting regulation, one that provided guarantees for the existing public-service broadcasters whilst opening up a new commercial sector. Following the court's ruling, it was accepted that the very precondition for the introduction of private commercial broadcasting was a commitment to the 'existence and further development' of the public sector. The private commercial pillar of the dual system would be allowed to benefit from a significant, but still controlled, measure of deregulation. The private sector broadcasters were required to su, ply diverse and balanced programming, although now this might be achieved *across* the range of new services ('external pluralism') rather than, as traditionally had been the case, *within* them ('internal pluralism'). Within these broad parameters, it fell to the individual *Länder* to make their own detailed regulatory provisions; a point that was confirmed by subsequent court rulings. Generally, the private sector broadcasters in Germany saw themselves subjected to a fairly 'dense regulatory code of conduct' even though the rules were laxer than those placed on the public-service broadcasters (Ruck, 1992, p. 228). The commercial broadcasters were policed by a whole range of new regulatory bodies, established in the *Länder*. Responsible for franchising and overseeing the new private commercial sector, these regulatory bodies (*Landesmedienanstalten*) were endowed with the ultimate sanction of revoking licences. Thus German deregulation was qualified by certain unmistakable re-regulatory features. Certainly, the outcome stood in conspicuous contrast to the French case; there was no question of privatising the leading public-service broadcasting channel and reducing the others to a marginal role. Unlike in Italy, immobilism was avoided through the re-establishment of a basic consensus and as the result the market actors were not given an entirely free run. As in the British case, the German reform continued to value proven public-service traditions and institutions. Indeed, in the German case public-service values received special constitutional-legal protection. This was definitely not the case in Britain where the duopoly was left facing some uncertainty about the future.

Patterns of deregulation in Europe's smaller states

Most of Europe's small states had maintained historically a very strong commitment to the public-service model of broadcasting. Typically, they had long regulated their broadcasters most strictly. Luxembourg's commercial system was the notable exception. Elsewhere, if advertising was allowed, it was only supposed to supplement the licence fee as a source of revenue for the public service broadcasters. Here the only exceptions were Luxembourg, without any licence fee, and Spain (not a small state), where the public broadcasters became more or less entirely reliant on advertising during the 1980s. In many respects the European small states' broadcasting policies were rather conservative and non-innovative, giving clear priority to the serious cultural aims and duties of broadcasting. They were corporatist and consensual. They accorded an important role to 'socially relevant groups' in media policy-making. Decision-making, therefore, tended to be incrementalist, characterised by closely bargained outcomes.

Thus, in the Netherlands the various political and cultural 'pillars' had maintained a fairly tight grip on broadcasting. Belgium, too, had a politicised and strongly regulated public-service monopoly, differentiated linguistically. In Austria the two main political parties together had an armlock on the system. In each case, there was much resistance to commercialisation. The important role of consumer associations, too, reflected the potential for social forces to shape policy in consensus orientated systems. The Norwegian Consumer Council (*Forbrukerradet*) helped block the introduction of a national commercial television channel in the 1980s. When finally allowed in 1990 such a channel was given a monopoly of domestic advertising and subjected to strong regulation (e.g. like ITV until recently). Similarly, the Danish Consumer Council (*Dansk Forbrugerrad*) obstructed the introduction of advertising both for the second national television channel and for local radio and television (Sánchez-Tabernero, 1993, p. 57). Moreover, the smaller states had particularly strong economic grounds for commitment to the public service paradigm (Trappel, 1991; Meier and Trappel, 1992). With small home markets, and consequently small indigenous media industries, they could be expected to reap far fewer advantages than their larger neighbours from market liberalisation. With relatively small national production bases, they were already dependent on foreign programme imports. Conscious of their vulnerability to increased economic and cultural penetration, they naturally inclined towards protectionist and regulationist media policies. However, during the 1980s, the small states found themselves caught up in the slipstream of the deregulatory initiatives of their neighbours. They were exposed to the same imperatives of technology and international markets. At the same time, domestic lobbies and public pressure called for reform of their traditional structures.

In 1993, Austria had still not abolished its public-service monopoly despite a 1989 plebiscite in favour of such a course. The Swiss too had only allowed a couple of small pay-TV channels as well as some private investment in public channels. In Denmark's case the public service monopoly was abridged in 1988 with the introduction of a commercial second channel, but it remained public-service by regulation and identity and could hardly be counted as commercial. The

Netherlands had maintained a domestic public-service monopoly, although this had come to include some quite commercial services and the country had become very penetrated by foreign commercial stations (see pp. 142–143). The small states could not wish away satellite overspill nor effectively police cable systems. In fact, both Belgium and the Netherlands did try to bar certain foreign commercial programmes from their cable systems (virtually all television being transmitted this way in these countries), but the European Court ruled against such a prohibition. As a policy strategy, adherence to the public service-monopoly of domestic services meant limiting or denying to their indigenous commercial interests opportunities that satellite broadcasting was any how making widely available to foreign broadcasters. It was, as such, a leaky defensive ploy designed only to minimise the extent of marketisation. In the case of Austria and Switzerland, countries sharing languages with larger neighbours, the degree of protectionism afforded was very limited. Indeed, converted to a new strategy, the Swiss parliament at last gave its approval in 1993 to the launch of an entirely private channel, aimed at the Germanophone population (i.e. three quarters of the country). Nevertheless, this new channel was to supply information as well as entertainment; and it was predominantly owned by Swiss business interests.

Victims of wide scale 'imported deregulation', in fact, most small countries, bowed during the 1980s to the inevitable and introduced their own deregulation and liberalisation designed to encourage a response from indigenous commercial interests. The aim, as far as possible, was to make sure that domestic interests were the main winners from commercialisation. Thus, in strictly regulated Belgium, where France's privatised TF1, broadcasting terrestrially, had made inroads into the domestic advertising market, a new commercial television channel called RTL TVi was licensed to broadcast in the Walloon French speaking community in 1987. The new channel was a joint venture between nearly all the Wallonian newspaper publishers – organised in a group called Audiopresse – and Luxembourg's CLT in which Belgian interests (notably the powerful Banque Bruxelles Lambert) also had a stake. In Flanders a commercial television channel called VTM was allowed to start operating in 1989. VTM was owned largely by the Flemish press; indeed, majority participation of the Flemish press was an actual condition of liberalisation.

Even the Scandinavian countries, more protected by their peripheral situation and the fact that they were not so linguistically vulnerable (though there was a sizeable audience for a number of English language satellite services), followed the new paradigm. During the 1980s, Sweden had actually developed its own broadcasting satellite, mainly for reasons of industrial/commercial policy. In 1990 it duly allowed the satellite to carry domestic private commercial broadcasting services, notably a new advertising based channel called 'TV4 Nordisk'. Norway, fearful that the new Swedish services would poach in their advertising markets and also entice away indigenous commercial investors, soon followed suit by introducing in 1992 its own new private commercial channel called 'TVN'. Even though this channel remained subject to fairly strict regulation, the Norwegian case exemplifies all the same the irresistible pressure towards a degree of 'competitive deregulation'. In fact, both these countries' public service monopolies had already been abridged for several years by two commercial satellite channels aimed at Scandinavian audiences, namely TV3 (nicknamed 'Scansat'), headquartered in London, and Filmnet based in the Netherlands, both operating in true 'off shore' fashion from Luxembourg's Astra satellite. Thus, even in the traditionally strictly regulated Scandinavian countries, 'imported deregulation', carried by satellite, led to the adoption of new commercial strategies to give domestic interests a share of the action.

By 1993, Austria (see above) and Ireland were the only countries with no domestic commercial television channels. In Ireland, though, private commercial radio and television had been legalised in 1990 and a new national commercial channel licensed (it had merely failed to start up by 1993). Moreover, Ireland, the main east coast population area of which had always been exposed to commercial services from Britain, was by now thoroughly inundated by English language satellite television, receivable directly and relayed on its fairly developed cable infrastructure. In fact, in all the small countries, cable and satellite television was an effectively deregulated domain and carried a whole range of new advertising-based or subscription-funded services, mostly imported, and in many languages. Responding to public pressure, even Austria legislated in 1991 for the free reception of satellite television. As for private commercial radio, its expansion was ubiquitous in large and small states alike. Again, even Austria introduced it, as the first cautious step towards dismantling the ORF's monopoly.

Deregulation or re-regulation?

A case might be made for arguing that what has occurred is not so much deregulation as 're-regulation'. This line of argument switches the focus from the market liberalising aspect of deregulation, to the proliferation of new laws and regulatory bodies in the sector. Some have emphasised that this 're-regulation' has even entailed an element of over-regulation. The United Kingdom, it has been suggested, provides a very good illustration. In the United Kingdom, until the Thatcher government's reforms, the regulation of broadcasting was simply shared by two bodies – the BBC Board of Governors and the Independent Broadcasting Authority (IBA) – with their own comprehensive codes of practice for programming and advertising, and extensive powers to intervene if necessary in programming matters. In 1981 the government then established the Broadcasting Complaints Commission. Next, in 1984 the Cable Authority was set up to oversee the new media. Later, the 1990 reform of the commercial broadcasting sector saw the IBA's functions split between the ITC (now subsuming the Cable Authority) and a new Radio Authority. In the meantime, the Broadcasting Standards Commission had also been established, to operate a new programme code on matters concerning sex, violence, taste and decency. As Prosser (1992, p. 181) has remarked: 'rather than replacing the existing regulatory functions of the BBC and IBA (ITC), the creation of the Council added a further level of regulatory control'. In addition, the Office of Fair Trading and Oftel were given responsibility for regulating the new element of competition which Conservative reforms had introduced into the communications industry at large; Oftel was co-responsible for cable systems first with the Cable Authority and later with the ITC. In other words, by the 1990s a confusing system of no fewer than five regulatory bodies with their own codes of practice was in operation where two regulators had previously been deemed sufficient in the past. The result, it has been argued, was a regulatory maze with many competing and overlapping jurisdictions and more, not fewer, rules.

France too, it has been observed (Lange and Renaud, 1989, p. 25), shows how the 'process of deregulation can sometimes, paradoxically, destroy the initial aim of achieving less regulation', at least on the face of it. Certainly, the 1980s had seen a feverish succession of new regulatory bodies and law making. First the Socialists enacted a comprehensive law 'liberating' audiovisual communication in 1982. This law established a High Authority for Audiovisual Communication (*Haute Autorité*) with powers and responsibilities new to the French broadcasting tradition. These included the de-politicisation of key appointments in the public-service broadcasting organisations, the franchising of new local radio and cable services, and for the first time ever supplying independent IBA-style oversight over programming generally. Then, when the Right came briefly to power in 1986, it enacted another weighty law and replaced the High Authority (HA) with a National Commission for Communication and Freedom (*Commission Nationale de la Communication et des Libertés*, CNCL). The new body had more powers than the High Authority. It was responsible for overseeing telecommunications as well as broadcasting; with regard to the latter, its authority now extended to the private commercial sector. The Right's 1986 legislation also included a complex set of rules against media concentration (see pp. 217–221). In the words of Lange and Renaud (1989, p. 40), it 'created a dense web of obligations for the broadcasters' who found themselves 'restrained by specifications which [were] far more complex than under the previous system'. These rules were more or less retained when the Socialists, returning to power in 1988, replaced the CNCL with yet another regulatory authority, the Higher Audiovisual Council (*Conseil Supérieur de l'Audiovisuel*, CSA). Although these successive authorities never shook off the taint of politicisation (their members were political appointees), they undoubtedly provided a new element of IBA-style regulation. Their formal powers, too, had been progressively extended. The CSA could fine broadcasters heavily for non-observance of the extensive catalogue of programme regulations. It could even suspend channels. By now, the French statutory framework for broadcasting regulation could be decribed as being 'on paper … almost perfect' (Wolton, 1992, p. 151). The re-regulatory aspect of German broadcasting policy in the 1980s has already been mentioned. In Germany, the 1980s had witnessed a quite awesome amount of legislative rule making as well as the establishment of a whole new layer of *Länder* regulatory authorities for the private sector. Yet, without downplaying the unquestionably significant re-regulatory elements of policy-making, much of the 're-regulatory' activity simply reflected this federalised nature of regulatory competences in Germany (i.e. the need for multiple *Land* laws, regulatory authorities, etc.).

It is important not to confuse the number of rules with their scope and substance; and equally, the number of regulatory bodies with the degree of 'hands on' regulatory intervention that they supplied. What mattered most, in the British case, for instance, was that the Cable Authority had been established as a 'light touch' regulator. Later the ITC was also given a 'lighter touch' remit. Reduced to a more passive monitoring function, its relationship to the broadcasters was looser than the former IBA's had been. Similarly, although a 'quality threshold' had been introduced into the ITC's franchising criteria, its main consideration in allocating broadcasting franchises remained economic; this was necessarily so in an 'auction'. Moreover, in licensing new domestic television channels and satellite services, the quality threshold was much weaker. For 'off-shore' satellite channels (like BSkyB) it was non-existent. Nor was any such threshold specified for new radio services. The division of the technical aspects of cable regulation between ITC and Oftel certainly did not make cable and satellite television services any more regulated towards public-service values. The existence of overlapping authorities concerned with decency standards and the like, could be seen as unnecessary duplication. (The 1994 White Paper on broadcasting has since suggested that the Broadcasting Standards Council be fused with the Broadcasting Complaints Commission). Finally, as will be seen in the next chapter, ownership regulations were relaxed. Certainly, the legislative process had diminished the radical deregulatory edge of the 1990 Broadcasting Bill, but this is the most that could be said. The franchise auction had already gone a considerable way towards 'marketising' the ITV part of the duopoly. Moreover, the commercial competition that the ITV companies would face in the future would be largely unregulated, another incentive for them to weaken their former public-service identification.

In France, it has been commonly observed, there has been a failure to observe restrictive regulations, even those in favour of 'made-in-France' programme quotas (Dyson and Humphreys, 1989, p. 145; Kuhn, 1995, p. 197). The point should be made, too, that the Socialists placed only minimal public-service obligations on the new commercial channels they introduced – Canal Plus, La Cinq and M6. As for the Right, as Kuhn (1995, p. 188) observes, one of the principal aims of its 1986 broadcasting legislation was to 'make the system more competitive and less hidebound by regulation'. The complex barrage of anti-concentration rules were to please the Constitutional

Council. An important insight into the new regulatory situation has been provided by Dominique Wolton (1992, pp. 147, 160). Examining the realities of French re-regulation, he concludes: 'notwithstanding the "fierce" determination to "protect" public television, in fact over the last ten years everything has been done to the benefit of commercial television' (p. 159).

In this connection, Wolton makes a very useful general point about the deregulatory trend in Europe: 'While there are still regulations to uphold a certain conception of what television should be, it is less their content than their context of meaning that has changed' (p. 147). The latter, Wolton judges, has been profoundly affected by marketisation: 'a policy of supply' has given way to a 'policy of demand'. Values and judgements about quality in broadcasting are no longer measured by the old public-service yardstick, instead they are determined by consumer choice. Regulatory 'practice' now tends 'toward a system emptied of any normative constraints' (p. 150). A common development in Europe, is the 'adoption of the strict logic of the market' (p. 152). Wolton gives voice to a *cri de coeur* when he concludes: 'never have the values in need of protection been so fully defined in the texts of legislation ... yet never has television been so bad!' (p. 153).

The latter remark is, of course, a highly subjective one. Nevertheless, Wolton makes an important point. Broadcasting regulation has never been simply about rules and regulations. Commitment to a 'public-service ethos' has always been far more important than any particular body of written laws, rules and regulations. Regulatory authorities have exercised considerable discretionary powers. They have performed their functions through the exercise of 'moral suasion' as much as by wielding any sanction. Further, the broadcasters themselves have practised a 'high degree of self-regulation'; they have 'functioned within a complex field of self-imposed constraints'. The recent changes in statute may have involved a frenzy of rule-making, but to focus on this alone and to ignore the changed context of regulation would be a grave error. Formal re-regulation may cloak far-reaching changes in the culture of regulation, in the values underpinning its interpretation, and generally in its relationship to the new marketised realities (Dyson and Humphreys, 1989, p. 139–140).

An end to politicisation?

Liberalisation has diluted the effects of politicisation, it has not rendered it entirely a thing of the past. The public channels continued to remain vulnerable to external political pressure and to internal colonisation. The new private commercial channels were bound to be freer from these kinds of direct manipulation. They were also more likely to be generally apolitical and predominantly entertainment-orientated. All the same, the political neutrality of private commercial broadcasters could only be assured if they were subject to genuinely independent regulatory institutions and practices. The French case showed that 'liberation' from politicisation had its distinct limits. Old traditions die hard. One of the explicit goals of the French Socialists when they abolished the state monopoly in 1982 had indeed been to liberate the broadcasters; state control of broadcasting had worked to their disadvantage during over twenty years of the Right's incumbency in government. The Socialists' establishment of the High Authority was supposed to remove the state's powers of routine interference in the public channels and also to depoliticise appointments to key positions within them. However, despite the exercise of greater restraint than had been customary in the past, Giscardian appointees in the public sector had already been eased out of their posts prior to the reform and a number of clearly partisan appointments had been made before the High Authority had even been set up. The High Authority itself was given a reasonably balanced membership, albeit one that was tilted towards the centre left, and the new regulatory body certainly seemed to inject a whole new quality of impartiality into French broadcasting regulation. Nevertheless, the Right was able to point out that the new body both confirmed the politically partisan appointments that had preceded the reform and made some very important ones after it. Moreover, despite the High Authority's best efforts, television output continued to be biased towards the government, though not so crudely as before (Kuhn, 1995, pp. 170–177).

As for the new commercial sector, the process of allocating franchises had produced some controversies. While the French Socialists' broadcasting legislation had given the High Authority powers to franchise new local radio and cable services, it had reserved to the government the business both of franchising and drawing up the regulatory codes of any new national channels. Canal Plus was delivered into the hands of a close presidential associate, Andre Rousselet. Even more controversially, the High Authority was not even consulted about the launch of La Cinq and M6 in 1985 (Kuhn, 1995, pp. 177–178). The government allocated La Cinq to businessmen widely judged to be political sympathisers, and Berlusconi (see above). Berlusconi was a strong player in the field of commercial television. He also had close relations to Italy's Socialist former PM, Bettino Craxi. The whole exercise seemed designed to deliver the commercial broadcasting sector into safe hands before the Right returned to power as the opinion polls suggested they certainly would (for details see Dyson and Humphreys, 1986, pp. 111–112). Returned to office in 1986, true to form, the Right then replaced the Socialists' High Authority with their own National Commission for Communication and Freedom. The commercial channel franchises were promptly reallocated. Berlusconi was allowed to retain his stake in La Cinq, but now alongside Robert Hersant, the Right-wing Gaullist press baron. The M6 franchise was handed over to a consortium led by the water utilities company Lyonnaise des Eaux; the latter's chairman, Jerome Monod, was a former general secretary of the Gaullist party. However, TF1 did not go to the government's favoured candidate Hachette (Dyson and Humphreys, 1988, p. 30; Kuhn, 1995, pp. 188–191).

Predictably, the pattern was different in Germany where a whole system of new *Land* media authorities had been created to oversee commercial broadcasting. German law laid great stress on their supposed independence. However, like the public-service broadcasting corporations, there were distinct limits to their practical freedom from political influence. Porter and Hasselbach (1991, p. 62) point out that although generally they reflected party political and governmental interests less than the broadcasting councils of the public-service corporations, 'political representation [was] still substantial'. At least, in clear contrast to majoritarian France, the principle of *Proporz* assured that a balance was maintained between the main parties. Also, the principle of representation of 'socially significant groups' made for an important degree of pluralism. Nevertheless, the new regulators were still widely felt to be close to their respective *Land* governments (Humphreys, 1994, pp. 282–283; also see Dyson, 1992, pp. 95–97).

Italy was a very special case, as seen. Marketisation had occurred in an uncontrolled manner. One feature was that for many years, American-style, the parties had been allowed freely to buy air-time for political advertising (this was actually tightened up by a 1993 law) whereas everywhere else in Europe the new private sector was subjected to the same strict controls over political advertising as the public broadcasters (Kaid and Holtz-Bacha, 1995). However, it was not so much this exceptionalism that made Italian commercial broadcasting so very controversial. Rather, it was the way that Italian commercial television was deployed so blatantly as an instrument of the political ambitions of one man: Silvio Berlusconi. Berlusconi simply did not need to buy any political advertising. He owned three channels – Rette 4, Canale 5 and Italia 1. In 1994 Berlusconi's virtual monopoly of private commercial broadcasting in Italy served as the main electioneering instrument of his hastily contrived Forza Italia movement. Indeed, the movement was virtually a media creation. With the help of his television empire, Berlusconi became Italian Prime Minister (briefly as it turned out).

Even in Britain's case – where the broadcasters have been able to boast a strong record of independence – marketisation could paradoxically be said to have increased their exposure to political pressures in two key respects. Firstly, a prominent feature of the rather subtle marketisation that has so far occurred has been the 'casualisation' of employment conditions and the increased reliance of both BBC and ITV on short-term contracts. This development, it has been argued (Etzioni-Halevy, 1987), is hardly conducive to journalistic independence. Freelances and contract employees are likely to be much more sensitive than permanent staff to any political pressures that may filter down via management. Secondly, a more direct source of external pressure – on the BBC itself – has been the threat to its funding base and the general weakening of its self-confidence that has accompanied marketisation.

Guide to further reading

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