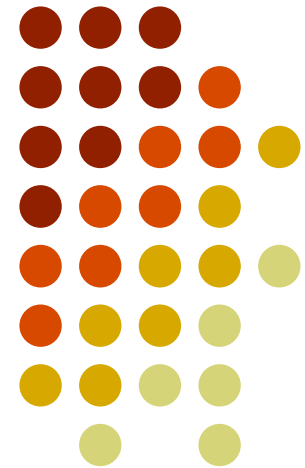


Lecture 5: Theme: Self-regulation

European Media and
Communication Policies

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Questionnaire results:

- Discussion on course assignments
- More reference literature
- More real life examples



Answers to course assignments



- European identity*
- What is the DRM
- Linear and non-linear services*
- Universal service principle

European identity



- “Some decades ago, being European meant being white and a citizen of a country located in Europe, and having a culture that was dominant in Europe.
- However, this seems to have changed over the years due to factors such as immigration, regional economic integration and globalization.
- This has presented problems in explaining what European identity, an identity which all citizens of European countries can associate themselves with, is.
- The main factors that make up European identity are culture, formal citizenship and to some extent, geography.
 - **Culture** is a very important factor in identifying any group of people and as such, European culture, in spite of some variations from country to country, still constitutes part of European identity.
 - **Formal citizenship** is also a very important factor in determining European identity as being European no longer implies being of Caucasian descent as it did a hundred years ago.
 - Thirdly, **geography** still plays a part in determining European identity. This implies that being a member of a country geographically located on the European continent is being European. Lastly, being a citizen of a European Union country implies being European.”



European identity

- European identity, according to Jürgen Habermas, relies basically on several core values and principles, such as:
 - modern free market economy,
 - democracy and civil rights, and
 - history.

European identity



- “We can say that the identity of Europe is still vague and in need of changing and being reinforced. In order to create a political union, Europe needs more than economical arguments such as a single, similar currency. The identity of Europe needs a political support and a social unity.
- As Habermas stresses in his article, Europe has to find its shared values, attachment to a special way of life and a “model of society than has grown historically”. It is even truer considering the social costs of the economical globalization: Europe has to work together with nations in order to cope with it. In that sense, we can sum up by saying that Europe needs “social solidarity”, “positive coordination” and therefore a political and social basis to share.”

European identity



- To create a “European Identity”, in my opinion, there is a need for people to know, that there might be affiliated with others from a total different member-state, in terms of legislation only as one example. All people within the EU having the same constitutional law might help to develop a feeling of affiliation, because everybody can insist on the same rights, at least, if one owns the citizenship of one of the member-states.

Linear and non-linear services



- “When speaking about linear services, we aim at services or programs which are part of a continuous sequence of an emission. The person or company who airs the program, defines when the show is transmitted and bares total editorial responsibility. The programs are being “pushed” towards the spectator (“push-services”). Examples of linear media services are traditional broadcasting and IP Television (IP-TV).
- Nonlinear media services at the other hand, implicate that the consumer requests a certain media content on a specified moment. The consumer is being “pulled” towards the medium (“pull-services”). Video-on-demand, web-based news and certain forms of distributing audiovisual material by using the internet can be seen as examples of these nonlinear media services.”



- “The European Commission argues that the distinction between linear and nonlinear services can be made by determining the level of control the user has regarding the choice of certain content and the moment of consumption of the specific medium. While using nonlinear services, the consumer encounters this type of control, when using linear services he or she doesn’t.
- Both linear and nonlinear services are being subjected by a “basic tier” of restrictions, but a more extensive frame of regulations is only applied on linear services.
- Opponents of this distinction claim that because of the rapid technological changes, the boundaries between linear and nonlinear services could tarnish and a nonlinear service could mistakenly be seen as a linear service and be subjected to a higher level of regulation. “

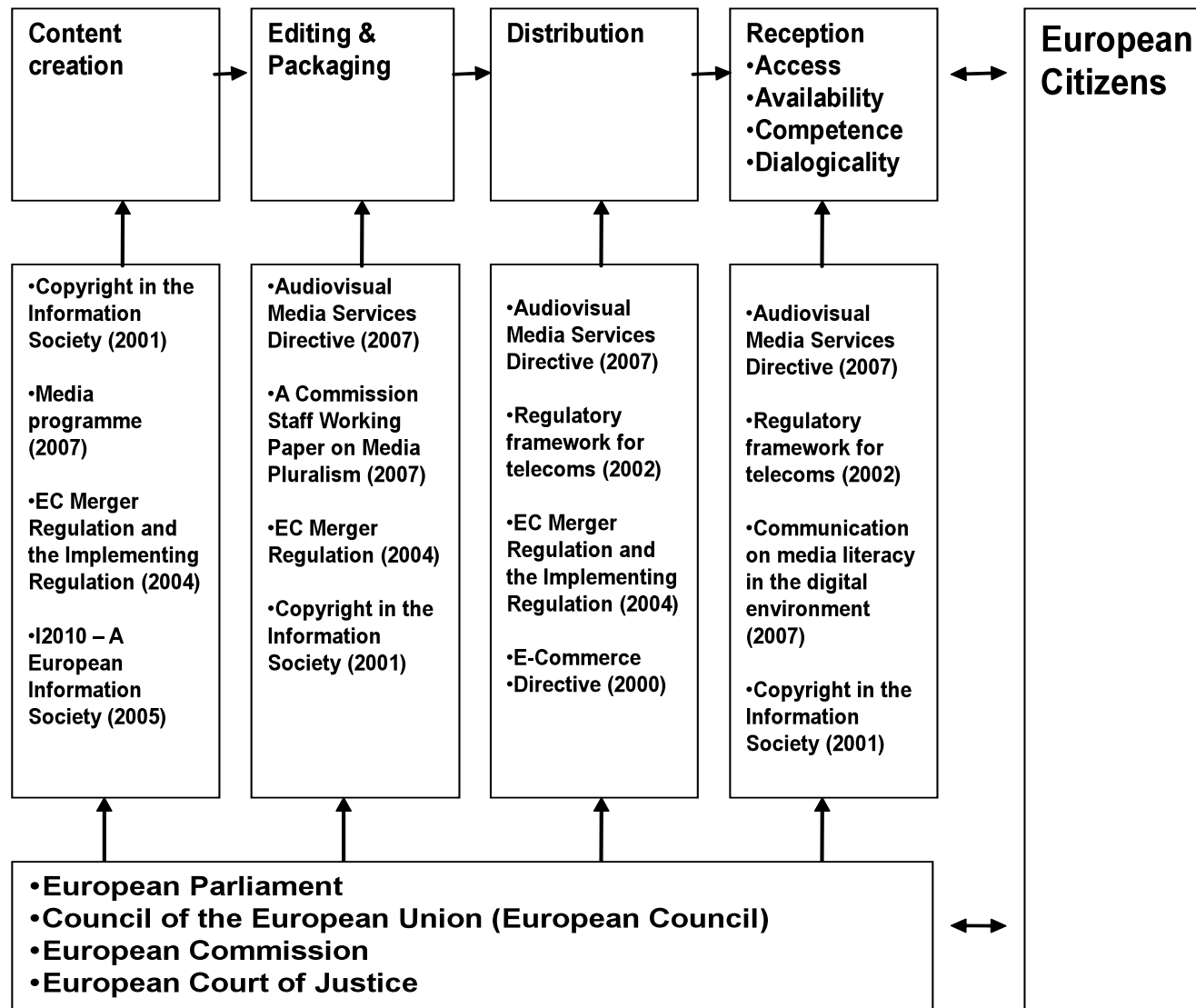


- “In my opinion, this distinction is certainly appropriate, since consumers cannot be protected enough against the quirks of media owners, advertisers and multinational corporations. In this respect, it’s better that some services are under a restriction that is too drastic, than the possibility that certain media services would have a lack of control.
- These days, consumers are already fooled frequently by using media, and this, in my eyes ingenious, distinction and proper regulation is therefore indispensable.”



Refreshing the themes

- Just to refresh out memory: what have we got so far
 - Content creation: EU copyright regulation
 - Editing & packaging: from TVWF to AVMS
 - Distribution: Telecoms package



Today's themes: policy principles



- Universal service obligations
- Self-regulation and co-regulation
- Examples:
 - TeliaSonera (telecommunication)
 - Sampo Pankki (e-banking services)
 - Elisa (telecommunication)
 - Consumer Agency (consumer protection)

Example 1: TeliaSonera telephone services



- TeliaSonera will cut down fixed telephone lines in rural areas in early 2009 and offers wireless connections instead
- Problems:
 - broadband internet,
 - mobile signal,
 - 112 and safety calls,
 - telefax connection
- MinTC asks TeliaSonera after their licence conditions: twelve questions
- MinTC's stipulations include a suggestion of USO at "the level of basic service...defined as 1 Mbit/s in the whole country"

Example 2: Sampo Pankki's e-banking services



- Sampo Pankki was bought by Danske Bank in 2007
- The old e-banking system of Sampo was replaced by DB system during Easter break
 - The problem: DB system requires Windows 2003, XP or Vista – older versions (e.g. Windows 2000) don't function; Linux and Mac have difficulties
- As a result, 50 000 users lost their e-banking connections
- Sampo Pankki offers €100 check for those affected, to be used in a major Finnish home electronics shop (Musta Pörssi)

Example 3: Elisa's mobile connections



- Elisa telephone company changed its billing system early summer 2007
- Due to problems in software, since then the system has sent double bills to customers
 - As there was a delay in billing – i.e. sending the bills in time – the company has closed the gap and sent the bills more often
 - Customers have not been able to check in time the correctness of the bills
- The problem has continued even early 2008

Example 4: Consumer Agency



- Finnish Consumer Agency received 4 600 complaints in 2007 (up from 3 600 in 2006)
- Largest number: mobile phone and broadband subscriptions
- "...companies do not take [their] responsibility seriously and do not comply with the rules that are prescribed in the Consumer Protection Act"



What the examples tell us:

- The lessons:
 - TeliaSonera case: public intervention (ex ante regulation)
 - Sampo Pankki case: no clear regulation
 - Elisa case: no clear regulation
 - Consumer Agency: ex post regulation
- What is the public policy here? What regulatory principles are at play?

Case: Universal Service Obligations



- Definition:
 - “The concept that every individual within a country should have basic telephone service available at an affordable price. The concept varies, among countries, from having a telephone in every home and business in the wealthier countries to most inhabitants' being within a certain distance or time away from a public telephone in developing countries.” (WTO)
- Three elements:
 - 1) policy imperative,
 - 2) scope of services,
 - 3) the means by which the service is produced



USOs and internet

- USOs and the internet
 - The connection provided must guarantee “functional Internet access, taking into account prevailing technologies used by the majority of subscribers and technological feasibility” (Universal Service Directive, 2002)
- In Finland, broadband penetration is over 60 % households (MinTC, 2007)
- Finnish government:
 - Broadband connection “does not at the moment belong to the USO as defined in the universal service directive, as it is not yet a technology used by the majority of subscribers” (Proposal for a new act on telecommunication, 2007).



Case: self-regulation

- Definitions: legal regulation, co-regulation, self-regulation
- Growing emphasis in self-regulation because:
 - Fragmentation of the market: old regulatory means inadequate
 - General ideological-political drive towards de-regulation (market regulation)
- Questions:
 - What is the purpose of self-regulation?
 - Who is the "self" in self-regulation?
 - How does self-regulation relate to legislation?



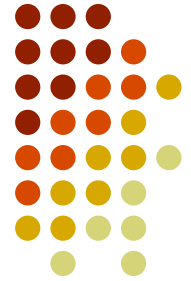
Purpose of self-regulation

- Several interests to be served:
 - Company protection
 - Fair competition
 - Consumer protection
 - Democratic accountability
 - Citizenship rights
- Not commensurate and congruent: different aims require different solutions



Who is the "self"?

- Who are the parties:
 - "Self-regulation is defined as the possibility for economic operators, the social partners, non-governmental organisations or associations to adopt amongst themselves and for themselves common guidelines at European level (particularly codes of practice or sectoral agreements)".
(EU Inter-institutional Agreement 2003)



- Compare:
 - “By self-government is meant the voluntary co-operation of economic operators in order to prevent harmful and criminal activities. Control is based on the agreements and norms agreed by the parties. The economic operators act themselves as controllers. Public authorities intervene only in criminal cases.”
(Finnish Ministry of Transport & Communications, 2008)
- Missing: social partners, non-governmental organisations, associations, consumers



Relation to legislation?

- Relationship between self-regulation and legislation:
 - “If the SR sanctions do not work, an ultimate legal mechanism is needed in order to force members to comply. A similar mechanism is also needed for those traders who are not members of a code”.
(Self-Regulation in the EU Advertising Sector, 2006)



- Compare:
 - “Self-regulation is suitable also for situations in which regulation might prevent or slow down development in the emerging markets. For developing markets, it is too early to create guiding legislation. Self-regulation brings efficiency and flexibility to the market.”
(Finnish Ministry of Transport and Communications, 2008)



Observations

- 1) Self-regulation and the "closed shop" syndrome: what about the players who don't follow the rules?
- 2) Self-regulation and standard setting: standards are not only technical (BlueRay, HDTV, MHP-H)
- 3) Self-regulation without a legal backstop: consumers' rights?



Connections:

- The Finnish cases show that the "closed shop" type of self regulation does not benefit the citizen-consumer:
 - The industry-led self-regulation has led to the situation where there has not been real competition in broadband connections
 - The industry has not been eager to build and offer faster connections as they are not within the USOs



Next time: PSB

- Next time (Tuesday 1 April):
 - Public Service Broadcasting
 - Dr.Soc.Sci Johanna Jääsaari
- Thursday 3 April:
 - EC Communications Policy
 - Visit to EC Representation in Finland (Euroopan komission Suomen-edustusto)
 - Address: Pohjoisesplanadi 31
 - **Meeting in front of their office at 14:00!**



The programme

- Thu 27 March: Theme: Self- and co-regulation
- Tue 1 April: Theme: Public Service Broadcasting
- Thu 3 April: Theme: EC communication
- Tue 8 April: European information society
- Thu 10 April: Issues in European media ethics
- Fri 9 May: Deadline for the submission of course works (no session)

