Concerns in Reshaping Media Regulatory Environment

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ABSTRACT

Evolution of media and communication policies and regulations are an important area of inquiry in policy research. There have been several shifts in policies and regulations with globalisation and emergence of new digital technologies. In this background, the paper outlines the key areas of state intervention in media, including nationalisation, liberalisation and privatisation of media. The paper attempts to identify the milestones in the development of communication policies and regulatory measures, including telecommunications. Further, the paper will track the internationalisation of policies, facilitated by convergent digital technologies in the communication sector.

Introduction

Policy is a set of guidelines founded on certain values and principles to attain fixed goals through concerted actions. In general, policy-making and implementation involve identification of potential problem areas, planning, development, implementation, and evaluation. Policies are developed through the guidance of government bodies, institutions and legal frameworks with the perspective of setting directions in the development and functioning of a particular sector. Laws and regulations aid in implementing these policies.

Media and communications policy are relatively new and are often interconnected with other policy areas, including cultural policy, telecommunications policy and information policy. Even as the policies vary with nations and the political systems that they follow, in general, the state has the major objectives of protecting national security, achieving technological progress and accelerating economic growth while formulating media and communications policies.

Objectives

The objectives of the research are :

- To assess the nature, role and scope of media policies and regulations
- To recognise the primary issues concerning the media regulations
- To evaluate the reshaping of the media regulatory environment in the context of globalisation

Media and Communication Policies

Media operates in a dual market – selling a product to consumers and a service to advertisers. Media production is both capital intensive and labour intensive. As huge capital is involved, media structures are fundamentally determined by the nature of ownership and since its inception has shown tendencies towards monopoly.

In general, media systems and the patterns of media ownership within them have been primarily organised on national scales. However, in the post-1990s, the technological advancements leading to convergence of media technologies - specifically broadcast, telecommunications and internet technologies, have made transnational flow of news and culture inevitable leading to what McLuhan conceptualised as Global Village. The media systems that mainly functioned on the basis of the nation-state - the degree of control the state exerts over media and the kinds of ownerships it cultivates, had to reform to adapt to the requirements of the transnational media.

According to Peter Hunt and Sonia Livingstone (2011), two major features of the emerging media system have more recently put both these approaches to regulation at risk : transformations in the production, distribution and marketing of digital media ; and the increasing power of global media corporations operating across national borders and pressing for open markets. Not only is the development of multimedia and convergent devices and platforms revolutionising the character of media systems and markets and, therefore, the everyday experiences of the public, but it also makes it increasingly difficult for governments to implement media and communications policies based on shared national values and aimed at delivering social and cultural policies.

According to Denis McQuail (2004), three paradigms can be identified in the history and formulation of Communication Policy :

Phase – I : The emergence of the communications industry policy, from late 19th century to World War II, with the goal of protecting strategic interests of nations and promoting industrial and economic development.

Phase – II : A public service media policy between 1945 and 80s/90s with thrust on communication more than technologies, controlled allocation of scarce frequencies, promoting cultural and social goals and forbidding harm to society

Phase – III : A new paradigm of communication policy trends of internationalisation, digitalisation and convergence, centre-stage of telecommunications with economic goals preceding social and political goals.

Early discourses of media policies were concentrated around three issues:
a. freedom of expression
b. access and
c. monopoly.

The general idea was that there cannot be absolute or unqualified freedom and that freedom of expression should entail responsibility towards the basic rights of citizens in order to foster a healthy media environment. Hence, state intervention in media was purported to curb any possible abuse of the freedom of expression. For instance, inciting violence or hatred, damaging the sovereignty of the country and endangering the fraternal relations with other countries were quoted as the pretexts for such interventions. Secondly, policy interventions were considered necessary to ensure widespread access and to effectively prevent monopoly of media ownership.

The objectives for policies in the communication sector have been two-fold – economic, and socio-cultural. As Alan Stretton (2004) identifies, the following are the objectives : [as shown in Box 1]

Box 1 Government objectives for policies in the communication sector

Economic objectives

- Promote and sustain competition and choice as a means of minimising price and maximising quality of communications services
- Encourage investment and innovation
- Maximise the contribution of the communication sector to economic growth and performance
- Efficient allocation of spectrum.

Social and cultural objectives

- Affordable access to a universal service specified in terms of telephony, broadcasting and internet access.
- Plurality of voices in the media
- Cultural diversity and national identity reflected in the content.
- Consumer protection and privacy.

The state policies were intended to provide checks and balances as dominant political and economic interests could dominate and control the powerful communications sector. Policy approaches, therefore, centered around the extent to which media contents reflect political, cultural or commercial interests, and free and fair competition. Further, policy-decisions were concerned with state-ownership of media, state subsidies or concessions for media, taxation, liberalisation and privatisation. Stretton has classified the general types of media policies as (Stretton, 2004) : [Refer Box 2]

Box 2. General types of policies

OBJECTIVE	TYPES OF POLICIES AND MEASURES
Plurality of voices in the media	• Restrictions on cross media and cross sector ownership

	• Restrictions on the reach of individual broadcasters, either in terms of number of channels or audience reach • Restrictions on line of business • Funding of public service broadcasting
Cultural diversity and national identity	• Broadcast quotas for programming produced domestically • Financial and other assistance to encourage domestic content production • Restrictions on foreign ownership of broadcasters • Funding of public service broadcasting
Programme diversity	• Quotas for particular types of programming, such as news and current affairs, programmes with high production values, educational programmes, children's programmes • Obligation to provide certain programming deemed to be of national significance on free to air television • Funding of public service broadcasting • Must-carry rules for cable and satellite operators
Community standards	• Content prohibitions and restrictions relating to offensiveness, taste and decency • Requirements relating to accuracy and impartiality in news and current affairs programmes
Restriction on advertising	• Restrictions on the amount of advertising • Prohibition of advertisements for certain goods (*e.g.* tobacco products)

	• Restrictions on advertising during programmes intended for young children
Universal coverage of a free, basic broadcasting service	• Licence conditions stipulate coverage obligations
Efficient allocation of scarce spectrum	• Efficient allocation of scarce spectrum

Media Regulations : An Overview

Media regulations are pertaining to licensing and permissions of the media industry and are of direct consequence to the functioning of the market. They govern, control, order, command and systematise the media business. They guide and shape the conduct of institutions, market and culture. Regulations are, by and large, administrative; however, they are backed by statutes.

Regulations intend at stabilisation and advancement of the media and communication industry. They uphold the consumers' interests through quality checks and price controls. They safeguard workers' rights, prevent unsafe work practices and ensure the implementation of labour welfare measures. It is claimed that regulations are for public good as it aims at overcoming inequalities.

According to Denis McQuail (2004) :

Regulation refers to the whole process of control or guidance, by established rules and procedures, applied by governments and other political and administrative authorities to all kinds of media activities. Thus, regulation is always a potential *intervention* in ongoing activities, usually for some stated "public interest" goal, but also to serve the needs of the market (for instance, by supporting competition) or for reasons of technical efficiency (for instance, setting technical standards). Regulation takes many forms, ranging from clauses in national constitutions and laws to administrative procedures and technical specifications.

Media regulations determine issues of ownership, content, licensing, concessions, production and consumption. Therefore, they regulate the structure of media environment. For instance, they allocate the spectrum for broadcasting, placing certain obligations on broadcasters, which are crucial for decisions on license renewals or cancellations. Until the beginning of deregulation policies in mid-1980s, there were regulations that made it mandatory to screen a minimum number of hours or quantity of locally produced content in television broadcasts. There were prohibitions or restrictions on exhibiting certain kinds of contents for children. Further, the media regulations deals with issues like defamation (such as libel and slander), copyrights, sedition, obscenity, pornography and invasion of privacy.

Self-regulation

Apart from state regulations, there are self-regulations set up at the industry level, normally through autonomous bodies. The self-regulations set certain professional standards and norms, including appropriate codes of behaviour and practice for media. The self- regulations protect the independence of media and provide security from state interference. As media is growing to be increasingly global, regulating media has become more and more complex and challenging. Hence, self-regulations are considered to be a viable option for media accountability. However, self-regulation requires voluntary cooperation at every level of media organisation. The codes of practice consist of ethical guidelines and prohibitions on specific types of content and excesses of media. In print media, for instance, there are press councils that focus on adhering to principles of journalism and practicing fair comment and criticism. In addition, the regulatory bodies provide monitoring and complaints mechanism for controlling violations and redressing grievances. Likewise, broadcast media are expected to conform to certain codes.

Regulations on Broadcasting

Broadcasting requires spectrum, which is a limited and scarce public resource, allocated to nations as per international agreements, and in itself is a valuable reason to place obligations on broadcasters.

Federal Communications Commission is an independent agency to regulate spectrum management for broadcasting. It began as FRC or Federal Radio Commission in 1927 to license radio stations. Through the Communications Act of 1934, a seven member Federal Communications Commission was set up to regulate broadcasting as well as other electronic technologies. FCC regulated

1. licensing, programs, multichannel distribution, direct broadcast satellite, service policy,
2. authorisation, transfer, assignment and renewal of media services
3. international allocation of spectrum and bidding for spectrum auctions

Deregulation

The liberalisation regime that began in 1980s eliminated many rules and regulations denouncing the regulatory failures and red tapism and sanctioning the notion that market alone can do better. While deregulation has promoted free trade**,** it has resulted in media concentration and conglomeration in an unprecedented scale at the cost of media pluralism and undermining the fairness doctrine and the law of the golden mean. It has failed to stall the indecent broadcasts.

As Lunt and Livingstone (2011) have noted :
Government control over markets, social life and culture is challenged by the perceived imperative to deregulate in order to open up markets and so maximise the benefits of globalisation. Global media markets in particular play a critical role in shaping these transformations by facilitating global connectivity and undermining state control while, at the same time, being themselves shaped by those same processes of globalisation.

Telecommunication Policies

The evolution of telecom policy has to be located in relation to the changing technologies, industry structure and its response to former policies. With the development of most convergent of technologies like internet, telecommunications have emerged as one of the world's most globalised sectors. In India, there was public ownership of telecommunications till early1990s. Through the new telecommunications policy, the policy structures that were designed for state monopoly was reformed into a decentralised one, which is compatible with substantial competition. Since its inception, the Department of Telecommunications was the sole service provider until early 1990s with very low ratio of landlines in rural households. Following the two-pronged strategies of privatisation of state-owned firms and liberalisation reducing entry barriers for competition, there was huge transformation, both in quality and quantity, in the telecom infrastructure. Indian telecom revolution has been unique, characterised by high competition, increased private participation and no privatisation of the national carrier.

As digital networks converge, hitherto distinct communication industries with traditional structures of businesses and markets have become irrelevant and the scope for international trade has widened. Therefore, the communication policies had to be reviewed, rethought and reframed to suit the changing scenario. In a drastic move, the United Kingdom merged its formerly separate regulatory bodies for telecommunications, television and radio under one umbrella agency – Ofcom. The Office of Communications or Ofcom was launched through the Communications Act, 2003, as a new regulator for media and communications sector, in a bid to promote competition and media pluralism, reduce regulatory burden and support self-regulation. Ofcom was entrusted with the regulating television, radio, telecom and spectrum management.

A similar move in India has been proposed through Communications Convergence Bill, 2000, to create a single regulatory authority, Communications Commission of India, repealing the Indian Telegraph Act 1885, the Indian Wireless Telegraphy Act 1933, the Telegraph Wire Unlawful Possession Act, 1950, and the Telecom Regulatory Authority of India (TRAI) Act, 1997, to incorporate the advancements in Information Technology.

The Bill is applicable to the following technologies (Narrain, 2008):

1. Network infrastructure facilities (e.g., earth stations, fixed links and cables, public payphone facilities, radio-communications transmitters and links, satellite hubs, towers, poles, ducts and pits used in relation with other network facilities).

2. Network services (e.g., bandwidth services, broadcasting distribution services, cellular mobile services, customer access services, mobile satellite services).

3. Application services (e.g., public cellular telephony services, IP telephony, public payphone service, Public switched data service).

4. Content application services (like satellite broadcasting, subscription broadcasting, terrestrial free-to-air TV broadcasting, terrestrial radio broadcasting).

Foreign Ownership and Cross-media Ownership : A Few Concerns

The media ownership rules and regulations differ from country to country depending on the levels of foreign ownership and cross-media ownerships they intend to promote as a matter of competition policy. High concentration of media through mergers and acquisitions as well as conglomeration are perceived to be threats for healthy democracy, media pluralism and cultural diversity. Hence, ownership regulations restrict operations at the national level, local level, cross-media/sector ownership and foreign ownership. While some follow the route of enforcing cap on the number of licenses, capital share, and audience shares, others prefer the path of prohibition. However, major concerns over sustenance of domestic firms and the endangering of national identities are noticeable.

Conclusion

Policies that began with a thrust on restraining monopoly have now drifted to issues of network neutrality and open access. Securing adequate spectrum for super-wi-fi is foreseen as the next major challenge. As rapid growth of technological advancements is being witnessed, media policies and regulations are in a constant state of flux.

References

Peter Lunt, Sonia Livingstone (2011). *Media Regulations : Governance and the Interests of Citizens and Consumers*. London : Sage

Stretton, Alan (2004). *The Implications of Convergence for Regulation of Electronic Communications*, France : OECD

McQuail, Denis (2004). *Mass Communication Theory,* New Delhi : Sage

Narrain, Siddharth (2008). *A Broad Overview of Broadcasting Regulations in India.* www.alternativelawforum.org