



Background information report

Media policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: The case of Denmark

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Project profile

MEDIADEM is a European research project which seeks to understand and explain the factors that promote or conversely prevent the development of policies supporting free and independent media. The project combines a country-based study in Belgium, Bulgaria, Croatia, Denmark, Estonia, Finland, Germany, Greece, Italy, Romania, Slovakia, Spain, Turkey and the UK with a comparative analysis across media sectors and various types of media services. It will investigate the configuration of media policies in the aforementioned countries and will examine the opportunities and challenges generated by new media services for media freedom and independence. Moreover, external pressures on the design and implementation of state media policies, stemming from the European Union and the Council of Europe, will be thoroughly discussed and analysed.

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The case of Denmark

Henrik Søndergaard and Rasmus Helles

1. Introduction

The Danish media system represents clearly what Hallin and Mancini call the Democratic Corporatist Model, as it is characterised by “a historical coexistence of commercial media and media tied to organised social and political groups, and by a relatively active but legally limited role of the state”.¹ One of the fundamental features of the Danish media system is its mixed character as it contains both commercial and public service media. Media policy as well as media regulation is first of all oriented towards finding the right balance between the different media types (private or public, printed or electronic media). Originally media policy was closely related to the culture policy of the welfare state, but since the 1980s cultural policy is one among many other motives for regulating the media. Quite obviously, media policy in Denmark has for the last decades been more directly oriented towards competition policy as the media themselves increasingly have come to be seen as an important part of the economy.

The political conflicts on media and media policy are mainly, but not exclusively an ideological struggle on the proper balance between state and market. In this conflict the right wing parties (which currently are in power) favour market-based and privately owned media, whereas the left wing supports public media and a (more) regulated media system. The balance between state and market within the media system is of course partly determined by the relative strength of the political parties in parliament, but is also influenced by the relative strength of the media involved. Moreover, new technology, international developments and not at least European media regulations have influence as well.

It is, however, important to notice that the fact that Denmark is such a small country (5,500,000 inhabitants) has a great impact on the way in which the media structure has developed – and on the way in which media regulation has been conducted. One of the consequences of being a small country is that the national media market has a very limited size, and one of the goals of media regulation has right from the beginning been to avoid some of the most harmful effects of the limited financial opportunities. Market size is important for all kinds of media, but it is obvious that it has more to say when it comes to television than to print media, since the economical advantage of low marginal cost increases with market size. In many other countries the political battle between market and state has been quite harsh, but in Denmark it has been more moderate, since there has for many years been a kind of consensus on the need for market intervention and strong public service media as a prerequisite for a healthy public sphere, for diversity and pluralism and not at least for national culture.

The balance between private and public media ownership is not the same for the various media. The printed press and magazine press have always been privately owned and have operated since 1849 almost without any influence from the state - besides from heavy subsidies - whereas radio and television from the very beginning were organised as

¹ D.C. Hallin and P. Mancini, *Comparing media systems* (2009 [2004]), at. p. 11.

publicly owned monopolies. From the 1980s onwards privately owned radio stations and television channels evolved. When it comes to “new media”, in particular online media, the media system represents a mix between public and private actors – corresponding to a great extent to the structure within the “old” media, as “new” media hasn’t really led to new kinds of ownership.

In terms of its political system Denmark has a long tradition for democracy and the Danish society has in many ways been subject to an ongoing process of democratisation as part and parcel of the development of the welfare society after World War II. When it comes to media legislation it has been oriented toward guaranteeing not only freedom of expression, but also giving media access to different groups in society and developing pluralism. Also public access media have been stimulated by public subsidies and initiatives in order to spread media literacy. Media is as most other parts of Danish society relatively highly regulated, and even though there have been attempts to deregulate the media during the last decades it is more reasonable to regard this as a process of re-regulation. As the media system has been rapidly expanding since the 1980s, the regulatory system has grown as well.

2. The media landscape in Denmark

In this part of the report we are looking at the Danish media system by giving an overview of the various media in terms of history, ownership, and market position. The news agencies are seen as an important part of the media system. We also explain the journalists’ background and education. Finally, we will look at media literacy and the status of the media in society.

2.1 The media market

The press

The number of newspapers has been rapidly declining since the 1960s, partly due to media concentration and partly as a consequence of the fact that still fewer Danes read newspapers on a daily basis. The decline in newspaper readership has been particularly visible in the last decade, as web-media has expanded.

To get an idea of the newspaper landscape it is appropriate to distinguish between national and regional/local papers and between Sunday papers and everyday papers. In 2010 there are 9 Sunday papers,² and 5 of these are national papers that are also published on workdays. These include *Berlingske Tidende*, *Politiken* and *Jyllands-Posten* (all omnibus papers) and the two tabloids *B.T.* and *Ekstra Bladet*. Moreover, there are 9 national papers published only on workdays, one of them being a weekly paper (*Weekendavisen*), another a specialised paper for the building industry (*Dagbladet Licitation*) and 3 of them being free of charge papers (*Urban*, *MetroXpress* and *24timer*). The number of regional/local papers without a Sunday edition is 26, whereas there are 12

² Dansk Oplagskontrol, “Kontrollerede oplagstal” [Controlled circulation numbers], available at: www.do.dk (last visited on 14/10/2010), and TSN Gallup, “Læsertal” [readership], available at: www.gallup.dk/nyhedscenter/statistik/laesertal.aspx (last visited on 01/10/2010).

regional weekly newspapers – all of them run by a single company: *Søndagsavisen*. Finally, there is a huge number of mainly weekly free district newspapers; in 2007 there were 282 of these papers.³

Historically newspapers in Denmark grew out of book printing, and the oldest newspaper is *Berlingske Tidende*, which dates to the 16th century.⁴ However, from the early 19th century newspapers became instruments for the political struggle for democracy and from the 1870s they became closely connected to the political parties. There were four major parties at that time, and in the beginning of the 20th century every city had four different local newspapers to choose from. In the 1950s the number of newspapers fell dramatically, as a process of concentration took place. As a result the newspaper market changed and a kind of newspaper monopoly was established at regional level – as only one of the four papers survived. Among the national newspapers there was concentration going on as well, and most of the newspapers with an explicit connection to a political party disappeared, whereas the omnibus papers such as *Berlingske Tidende*, *Politiken* and *Jyllands-Posten* were competing heavily at a nationwide level. The tabloids *B.T.* and *Ekstra Bladet*, owned by *Berlingske Tidende* and *Politiken* respectively, expanded especially in the 1960s and 1970s, but have faced major losses in readership from the 1980s and onward.

The major newspapers affiliation with political parties has weakened during the second half of the 20th century, even though most of them have a political orientation towards right wing. It is characteristic that newspapers with connection to socialist parties and the labour unions have almost entirely disappeared during the last decade. The very last labour union owned newspaper *Det fri Aktuelt* was closed down in 2001. Also newspapers owned by political parties such as *Land og Folk* (The Communist Party) and *Socialistisk Dagblad* (The Socialist Peoples Party) were closed – in 1982 and 1991 respectively. Only the socialist paper *Dagbladet Arbejderen* is left as a political party-paper (owned by The Communist Party). Of the newspapers still on the market only the highbrow paper *Information* is left wing, whereas *Politiken* has centre-left orientation, though none of them is affiliated or financially supported by a political party.

In the beginning of the 21st century major changes took place in the newspaper market, as a number of free newspapers were introduced – and a very costly and intense competition between four different free papers started.⁵ In 2001 the Swedish company Metro International launched *MetroXpress* as a commuter paper, and shortly after Det Berlingske Officin responded by launching its own free of charge commuter paper called *Urban* in order to keep a share of the advertising revenue. The two new papers reached quickly a balance and coexisted easily with the paid for papers. In 2006 Icelandic businessmen introduced a new nationally distributed free of charge paper *Nyhedsavisen* on the market, and a so called “newspaper war” took its beginning. Det Berlingske Officin launched *Dato* in response, a daily free of charge nationally distributed newspaper, and *Politiken* launched *24timer* the day after. The “newspaper war” ended in 2008 when

³ Rambøll Management, *Udredning af den fremtidige offentlige mediestøtte* [Analysis of the future public media support system in Denmark] (2009), at p. 59. For more precise information on district papers, see Danske Reklame-og Relationsbureauers Brancheforening, *Media Scandinavia 2010* (2010).

⁴ K. B. Jensen (ed.), *Dansk Mediehistorie* [Danish media history] (2001 [1996]), at p. 78f.

⁵ K. Minke, *Aviskrigen* [The newspaper war] (2008).

Nyhedsavisen was closed down due to financial problems. *Dato* already ended its existence in 2007, whereas *24timer* in 2008 became a part of the company behind *MetroXpress*.

The current developments within the newspaper business are to a great extent marked by the rapid expansion online. In order to keep advertising revenues almost every newspaper has launched an Internet version of their paper, which makes it more difficult to maintain readership for the printed version. The number of subscribers has fallen quite substantially. The three major national newspapers – *Berlingske Tidende*, *Politiken* and *Jyllands-Posten* – have lost more than 600,000 readers from 2009 to 2010.⁶ Only the niche papers *Information* and *Kristeligt Dagblad* have been able to avoid the decline. There is no doubt that the Danish newspapers face huge problems and are in the middle of a crisis that cannot but lead to a number of mergers between the major newspapers.⁷

The printed press is heavily dependent on subsidies and it is quite clear that most papers would find it indeed very difficult if not downright impossible to survive without the subsidies. Today the printed press receives three kinds of financial help from the state, the one being exemption from the normal VAT (25%) and the other being subsidies to distribution. In 2010 the distribution subsidies are estimated to more than 330 million DKR.⁸ Moreover, Dagbladsnævnet [The Newspaper Board] gives financial help to projects that aim to establish new newspapers, to reorganise existing newspapers or to help newspapers in financial trouble.⁹ Dagbladsnævnet is a board set down by the Prime Minister (in accordance with *Lov om Dagbladsnævnet* [Law on the Newspaper Board]¹⁰) and has as its aim to promote versatility and pluralism within the Danish newspaper market. In 2009 the Dagbladsnævnet granted app. 20 million DKR to these purposes.

In the next chapter the legal framework behind this system of public subsidies will be described, but it is important here to notice that in spite of the massive public funding the printed press regards itself as a private, market-based business.

Radio

FM is by far the most important distribution platform for radio in Denmark, and historically the national public service broadcaster DR, that even today holds a very strong position, has heavily dominated radio. Since the 1980s there has been a number of attempts to build a private radio industry, but so far it has turned out to be rather difficult to achieve this goal. When DR's monopoly was broken in 1982, the idea was to establish grassroot radio as a supplement, but later efforts were concentrated on creating a commercial radio system that could compete with DR.

⁶ TSN Gallup, "Læsertal".

⁷ In 2003 the companies behind *Politiken* and *Jyllands-Posten* merged, but it is supposed that more mergers will take places in the future.

⁸ Bibliotek og medier, "Dagbladspuljen" [Funds for daily newspapers], available at: <http://www.bibliotekogmedier.dk/medieomraadet/aviser-og-blade/dagbladspuljen/> (last visited on 14/10/2010).

⁹ Bibliotek og medier, "Tilskudsmodtagere" [Recipients of funds] available at: www.bibliotekogmedier.dk/medieomraadet/aviser-og-blade/dagbladsnaevnet/tilskudsmodtagere/ (last visited on 14/10/2010).

¹⁰ Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=20989> (last visited on 14/10/2010).

The number of analogue radio frequencies is limited, as Denmark has only 6 nationwide FM frequencies. Today DR runs 4 FM-channels, one of them being a regional station. However, it has recently been decided that DR shall give up one of its channels by 2011, when a new privately owned, but licence fee funded radio channel shall be established in its place. The fifth FM frequency which has nearly-nationwide coverage is run by SBS and is called Nova FM, whereas the sixth FM frequency that covers only 38% of the population is run by Berlingske Media in a joint venture with SBS. The channel is called PopFM and was launched in September 2010. DR runs 17 DAB channels, three of them being redistributed from the FM channels, and also Nova FM redistributes its FM-channel in DAB.

Local radio was established in 1983, originally as an experiment, but later on as a permanent part of the radio system. In the beginning local radio was not allowed to bring adverts, but later legislation was liberated in order to give room for commercial radio. Today there are 326¹¹ local radio stations: 175 non-commercial stations and 151 commercial stations. Most local radio stations are dependent on public subsidies.

In 2008 DR had a 76% audience share,¹² whereas Nova FM had only 5%. The daily reach for radio was in 2008 70%, and DR had a daily reach on 54%, while commercial radio 28%. There is no up to date information on the number of listeners to non-commercial local radio, but an analysis from 2003¹³ showed that out of 43 stations 14 had a weekly reach under 1% of the listeners.

Television

Due to the very limited number of frequencies the number of Danish television channels has been restricted much in the same way as radio even though analogue distribution ended in 2009 and was replaced by a digital terrestrial net with larger capacity. In the analogue terrestrial network there was only room for the two public service broadcasters DR and TV 2 and for local television, and as a consequence competition was relatively limited, as commercial broadcasting was almost entirely distributed through cable and satellite. The closing of analogue distribution has changed all this, but DR and TV 2 still have a dominant position amongst the audience. The most important private broadcasters, MTG and SBS, are not Danish companies, and they are broadcasted from England in order to avoid the relatively strict Danish regulation of the broadcasting sector.

There are three public broadcasters in Denmark: DR and TV 2/Denmark, and 8 regional (TV 2/Regioner) channels, which originally were a part of TV 2, but today are independent institutions. DR and the regional TV 2-stations are fully funded by licence fees, whereas TV 2/Denmark is funded by advertising.

¹¹ Kulturministeriet, "Lokalradio- og TV" [Local radio and television], available at: http://kulturministeriet.dk/da/kulturpolitik/medier/lokal_radio_tv/ (last visited on 1/10/2010).

¹² E. Harrie, "Radio och tv-landskapet i Norden" [The radio- and television landscape in Scandinavia], in U. Carlsson and E. Harrie (eds), *Nordiska public service-medier i den digitale mediekulturen* (2010), at p. 51.

¹³ Kulturministeriet, "Medie- og Tilskudssekretariatet Notat til arbejdsgruppen vedr. den fremtidige lokalradio og -tv-ordning" [Memorandum to the working group on the future local radio and television system] (2003).

DR runs six television channels (DR 1, DR 2, DR K, Ramasjang, DR HD and DR Update), all of them being fully funded by licence fee and distributed nationwide. TV 2 runs only one public service channel (TV 2/Denmark) financed by advertising, but runs also 5 pay-channels (TV 2 Zulu, TV 2 Charlie, TV 2 Film, TV 2 News and TV 2 Sport¹⁴). The 8 regional stations send their programmes in “windows” within the TV 2/Denmark schedule, but are also distributed in the local distribution system.

Local television started in Denmark in 1984, but it was, in its original form, closed down in 2009, when the analogue television distribution ended and was replaced by a digital terrestrial system (MUX 1) with regional distribution architecture. The regional net within MUX 1 is partly used for privately owned and non-commercial local television channels distributed in particular regions and partly used for privately owned non-commercial channels that are distributed simultaneously in all 9 regions (in practical terms nationwide distribution). Today only non-commercial local television is permitted. In 2009 there were 44 nationwide non-commercial private broadcasters within MUX 1 and 171 local/regional non-commercial private stations.

MTG is the oldest private broadcaster in Denmark, and today runs 3 major channels (TV 3, 3+, Puls) and a number of pay channels (among the 7 film channels). The other important commercial broadcaster is SBS that runs 4 channels (Kanal 4, Kanal 5, 6’eren, The Voice TV). Even though the MTG channels and the SBS channels are financed by advertising, they are heavily dependent on viewers’ direct payment for access to the programmes.

Except from MTG and SBS there are a number of primarily foreign channels distributed in Denmark, but their market share so far has been marginal. Moreover, there is a small number of cable-only channels in Denmark and a few number of Danish satellite channels.

As mentioned, the public service broadcasters still have a strong position in the Danish television audience. In 2008 DR had a market share of 29%, TV 2 had 39%, MTG had 9% and SBS had 6%. The four major broadcasters taken together had a market share of 83%, which clearly gives them a dominant position.

Online media

The landscape of Danish online media is extremely varied, with a large number of organisations offering various types of online content. For purposes of the present discussion, the term “online media” is narrowed down to include only websites offering some level of editorial content of a broadly publicistic nature (i.e. news or culture), which are updated periodically, and which may or may not be combined with interactive features (i.e. comments or a forum).

In this group, the online activities of traditional media (the national newspapers and national public service media) are dominant. Taken together, the websites of the 7 daily, national newspapers (including 2 tabloid papers), the national public service provider DR, and the commercially run TV2, attract about 27% of all visits to Danish

¹⁴ TV 2 Sport is a joint venture with Viasat.

websites.¹⁵ In terms of content, very little is produced for online-publication only. The majority of content (83%) is produced in the editorial offices of traditional newspapers and TV-stations,¹⁶ and is published online and in the printed/broadcast version of the traditional media.

The business models of online media in Denmark are primarily based on advertising revenues generated from the relatively large amounts of traffic (excluding the public service broadcaster DR, which is not allowed to advertise). The exact size and importance of the revenue from online activities for traditional media is hard to establish, but it has not been sufficient to replace the revenue lost to other online enterprises (i.e. Google), and that lost as a result of the decline in newspaper circulation and subscriptions. All major newspapers currently employ a number of strategies aimed at maximising web traffic and thereby advertising revenues, i.e. by supplying links that allow readers to tag articles at their twitter/facebook account and thereby attracting members of their social network to the site.

No truly viable models for payment for access to online content have been found so far, although some newspapers have experimented with e-subscriptions, allowing readers access to online and/or downloadable versions of the newspaper. Also, the national television station TV2 run a service called Sputnik, allowing subscribers access to previously aired content for a fee.¹⁷

Since 1 January 2007, the licence fee for the national public service provider DR has been tied to ownership of any device that allows the reception of sound and image broadcasts, rather than just television sets and radios. This means that the obligation to pay the licence fee now extends to owners of computers with online access, even if they do not own a TV or a radio. It has also made it possible for DR to stream all broadcast content online.

The number of online media, which are not somehow part of the activities of a traditional media enterprise, is quite low, and are for the most part very specialised in terms of content. With few exceptions,¹⁸ these online-only media attract limited amounts of traffic, and they rely almost exclusively on advertising as their source of revenue, which helps explain their limited number and difficult financial situation.¹⁹

Social media

The use of social media sites and services in the Danish population is growing, and has already reached relatively high levels. Blogs are written by 18% of the population, and

¹⁵ Based on measurements for August 2010. Foreningen af Danske Internet Medier, "Toplisten" [Toplist], available at: <http://www.fdim.dk> (last visited on 01/10/2010).

¹⁶ A. B., Lund, *Specialmedierne i den journalistiske fødekæde* [The special media in the journalistic food chain] (2010), at p. 3.

¹⁷ Rambøll, *Den fremtidige mediestøtte*, p. 76.

¹⁸ The Microsoft-owned <http://msn.dk> is the most successful online-only medium with an independent editorial staff, and attracts about 7% of all visits to Danish internet sites.

¹⁹ It is not possible to draw a clear picture of the business models of online-only media, since they are organised in many different ways, and are often part of larger business enterprises that generate income from sources other than media content production. See Rambøll, *Den fremtidige mediestøtte*, p. 78.

read by 33%. 49% regularly participate in chat or use online fora.²⁰ The national statistics do not include social media as a separate category, and therefore it is difficult to assess the activities at large social networking sites (i.e. Facebook). Other sources have made some effort in specifying the use level of social networking sites. By 2008, about 30% of the population aged 18 or over had Facebook accounts,²¹ and about 13% of the population logged on to the service every day. The specification of access to and use of social media does not indicate the precise nature of the use of these services.

Currently, no reliable scientific evidence regarding the nature and distribution of the types of the communication taking place in social media exist, although several studies are under way. It is therefore not possible to gauge to what extent these sites are used for communication of a civic or public nature, or if topics for public opinion formation are voiced first in social media. Citizen journalism is also difficult to assess, as it may be published on virtually any online platform (in the form of a blog, a Facebook group, or a website).

The only way to gauge the extent of citizen driven journalism is to note that none of the top 250 sites²² in the index of Danish internet use can be classified as citizen driven media, but this does not include activities in Facebook groups or blogs with large readership.

News agencies

Ritzaus Bureau is the dominant news agency. Newspaq and Dagbladenes Bureau are minor agencies. All the Danish newspapers and DR own Ritzaus Bureau, which is financed through subscription fees. Ritzaus Bureau covers Danish and international news and cooperates with a group of seven news agencies in Europe called Group 39. The group consist of ATBP (Brussels), ATS (Zürich), ANP (Amsterdam), APA (Vienna), FNB (Helsinki), NTB (Oslo) and TT (Stockholm). Ritzaus Bureau has 150 employees – most of them situated in Copenhagen, but with some representation also in Aarhus, Odense, Brussels and Berlin.

2.2 Journalists' background and education

According to The Danish Union of Journalists there are about 14,500 journalists in Denmark. Among journalists with full time jobs 36% were women (2004).²³ There are no requirements for access to the profession of journalists, but in order to become a member of The Danish Union of Journalists one has to have completed an education in journalism/communication or to have worked as a journalist for at least three months.²⁴ The education of journalists takes mainly place at Danmarks Medie - og

²⁰ Danmarks Statistik, available at: <http://statistikbanken.dk/BEBRIT04> (last visited on 1/10/2010).

²¹ R. Helles, *Personlige medier i hverdagslivet* [Personal media in everyday life] (2009), at p. 87ff.

²² See Foreningen af Danske Internetmedier, "Toplisten".

²³ Dansk Journalistforbund, *Beskæftigelse og lønstatistik for kvinder* [Statistics of employment and pay of female journalists] (2005).

²⁴ Dansk Journalistforbund, *Bliv medlem af DJ* [Join DJ], available at: <http://www.journalistforbundet.dk/sw19955.asp> (last visited on 01/10/10).

Journalisthøjskole (Aarhus), at the University of Southern Denmark (Odense) and at the University of Roskilde. An education in journalism is usually a BA, but a BA in journalism can be supplemented by a MA in journalism. Many journalists in Denmark have other university degrees outside the fields of journalism, as the need for journalists with expert knowledge is increasing. The average monthly starter salary for a journalist in 2010 is DKR 31,000 (c. EUR 4,150),²⁵ which is slightly higher than most other professions with a comparable educational background.

2.3 Media literacy and media status in society

Danish internet penetration levels are among the highest in the world. In 2010 89% of households had some form of internet connection.²⁶ Statistics also show that 88% of the population had used the internet at least once during a three month period.²⁷

The use of mobile internet services is also very high: 54% of all citizens between 16 and 74 years of age use some form of mobile internet access regularly.²⁸

Literacy rates are relatively high in Denmark. In international comparisons Denmark is consistently placed among the top-ten countries. Even so, it should be noted that the reading skills of around one in ten adults are such that they experience severe difficulties when trying to read normal prose texts or written news.²⁹

The high levels of internet penetration correspond to relatively high levels of digital literacy³⁰ in the Danish population. However, a large analysis of the ICT skills of the Danish population found that about a third of the population lack the computer skills necessary to perform basic tasks efficiently.³¹ Also, the analysis found that about a fifth of the population rarely or never use computers. The group of people with lower skills consist primarily of people over 60 years of age, with low educational levels.

Taken together the statistics quoted above outline a situation, where the availability and use of online services is high, and where a majority of the population possesses the computer skills necessary to access and participate in online communication.

The numbers also suggest the existence of a sizeable minority of about 15-25% of the population, for whom the use of computers and online services is of little significance

²⁵ Dansk Journalistforbning, "Dimittendstatistik" [Pay for newly graduated journalists], available at: <http://www.journalistforbundet.dk/graphics/nyheder/2010/dimittend-statistik.pdf> (last visited on 01/10/2010).

²⁶ Danmarks Statistik, available at: <http://statistikbanken.dk/BEBRIT01> (last visited on 01/10/2010).

²⁷ Danmarks Statistik, available at: <http://statistikbanken.dk/BEBRIT02> (last visited on 01/10/2010).

²⁸ Danmarks Statistik, available at: <http://statistikbanken.dk/BEBRIT03> (last visited on 01/10/2010).

²⁹ OECD, "Literacy in the information age. Final report of the international adult literacy survey" (2000), available at: <http://www.oecd.org/dataoecd/24/21/39437980.pdf> (last visited on 21/10/2010).

³⁰ Defined in the final report of the European Commission's ICT Skills Monitoring Group, as the ability to "[...] search and retrieve information, to navigate and communicate on-line, to participate in digital, and virtual communities." See "Benchmarking Member state policy initiatives", available at: http://www.technopolis-group.com/resources/downloads/reports/309_eSkillsRep.pdf (last visited on 05/10/2010).

³¹ Teknologisk Institut, *Analyse af danskernes IKT-færdigheder* [Analysis of Danes' ICT skills] (2005).

in their daily lives, and for whom access to the internet and online media is problematic or impossible.

The high level of internet penetration in Denmark implies that a large range of media content is available to almost all Danish citizens. A sizeable portion of the content of printed newspapers is available online, just as a number of commercial and public service radio and television channels are streamed online.

The public libraries also play an important role in making media content available to citizens. Two thirds of the population visit a public library more than once a year, and about 11% use the library weekly.³² About 20% do not use the libraries at all. In addition to books, public libraries also make newspapers and magazines available to users. In recent years public libraries have expanded into lending films, audio books, and digital media such as computer games and programmes as well.

In addition to making media content available on a range of platforms, public libraries also offer to help people using the internet, and so play a part in an ongoing effort to raise the level of digital literacy and in making online services available to people having trouble reading.

The Eurobarometer country survey for Denmark (2009) finds high levels of confidence in the press (50%), television (67%) and radio stations (73%).³³ All numbers are higher than the average numbers for European countries.³⁴

3. Media policy in Denmark

In this chapter we will look at state and non-state organisations responsible for the conduct of media policy in Denmark, and we will discuss the media regulatory framework addressing structural as well as content regulation. Moreover, we will give an overview of the system of public subsidies to the media, as it is of great importance to the actual functioning of the media system.

3.1 Actors of media policy and media regulation

State bodies and organisations

The Ministry of Culture is the organisational structure for developing media policy in relation to electronic media. However, also the Ministry of Science, Technology and Innovation is involved as it is responsible for information technology and telecommunications.

³² AKF, Anvendt Kommunalforskning, "Danskernes kultur- og fritidsaktiviteter 2004" [Danes' culture and leisure activities], available at: http://www.akf.dk/udgivelser/2005/danskernes_kultur/ (last visited on 02/10/2010).

³³ European Commission, Directorate General Communication, Eurobarometer 72, National Report, "Denmark", available at: http://ec.europa.eu/public_opinion/archives/eb/eb72/eb72_dk_dk_nat.pdf (last visited on 03/10/2010), at p. 22.

³⁴ The authors would like to thank Tatjana Hennesser for her research efforts on this and other parts of the report.

Regarding the printed press the responsible minister is the Prime Minister, but in legal terms the Prime Minister has very limited influence on the press. However, legislation that aims to keep diversity and plurality in the printed press through financial support is based at the Prime Minister's office. Moreover, the Prime Minister's office has regular, but rather informal meetings with representatives of the media – in what is called The Press Contact Committee.

In relation to the press The Newspaper Council (Dagbladsnævnet) plays an important role as it administers the press subsidies. Moreover, The Financial Institute of the Press has the task of giving economical support to newspapers in crisis, to reorganise newspapers and to establish new newspapers.

The Press Council (Pressenævnet) has the task of maintaining ethical standards in both printed and electronic media. The Press Council is, however, not part of the state administration, but is an independent, public body.

There are two different kinds of regulation: one for DR and one for the other radio and television institutions. DR is regulated through a Board that has the overall responsibility for DR's activities. The Board is appointed partly by the Minister of Culture, partly by the major parties in parliament and partly by the employees of DR. Politicians are prohibited from being elected into the board. The regional TV 2-stations also have a board elected by the council of each of the regional stations. TV 2/Denmark has a board with 9 members, 6 of them being appointed by the Minister of Culture and 3 of them selected by the staff of the station.

The major regulatory body for radio and television is the Radio and Television Tribunal (RTT). In relation to DR the board has only limited responsibility as it oversees that DR fulfils its programming obligations as stipulated in the public service contract. Also when it comes to TV 2/Denmark and the regional TV 2-stations, RTT has the role of supervision. Moreover RTT invigilates that TV 2 follows other parts of the Radio and Television Act. RTT is also the regulation authority in regards to regional/local television and local radio as well as cable a satellite radio and television.

Online media may register with The Press Council. They thereby obtain the same privileges as other media (especially in terms of source protection) granted under *Medieansvarsloven* [The Media Liability Act],³⁵ and are also obliged to follow the normal rules for ethical conduct for the press, administered by the Press Council.

Media and civil society organisations

A great number of non-governmental organisations have impact on the development of Danish media politics and media regulation. The journalist organisation – The Danish Union of Journalists – is of great importance, as it is both a trade union and a professional interest and pressure group within media politics, aimed at improving the skills of journalists and at ensuring that the media and communications sectors actively promote openness and dialogue in society. The union has as one of its goals to contribute to

³⁵ *Medieansvarsloven* [The Media Liability Act], available at: <http://www.pressenaevnet.dk/Love-og-regler/Medieansvarsloven.aspx>, (last visited on 01/10/2010).

national and international debates about freedom of the press, freedom of expression and freedom of information.³⁶

Danske Mediers Forum is an interest organisation consisting of DR and TV 2 and six Danish media organisations. Its mission is to work in favour of good conditions for the media and for the freedom of speech. The six media organisations are Danske Specialmedier, Dansk Magasinpresses Udgiveforening, Danske Dagblades Forening, Digitale Publicister, FDIM, Radioerne and Ugeaviserne. The most powerful of these organisations is probably Danske Dagblades Forening, which is an interest and lobby organisation for all Danish newspapers.

Local media have their own interest organisations: Danmarks lokal-tv Forening (local television) and DILEM (non-commercial local radio and television). Moreover, a number of listeners and viewers interest organisations exist – either political as ARF (workers/social democrats) or religious as KLF. The listeners and viewers organisations have a joint organisation called Samarbejdsforum for danske lytter - og seerorganisationer (SSL) that has quite an important role in media politics and is represented in the Radio and Television Tribunal and in the Dialogue Forum in DR and in the representatives for the regional TV 2-stations.

Since 2001 a number of artist organisations made a joint effort to create public debate about the public service media in an organisation called Det ny Public Service Råd (The New Public Service Council). The council collects documentation about public service media and lobbies for strong public service media. It is worth mentioning that the council also has economical interests in the existence of public service media, as DR and TV 2 are important buyers of Danish music and art.

The actual influence that these institutions have on media policy in Denmark varies depending on their access to the politicians working within the field and the specific nature of the media policy in question. Most of the organisations have informal relations to some of the leading politicians or they have a privileged access to the management of the media. Usually, the media organisations primarily have a role to play when major media reforms take place. Proposals for new legislation are circulated among the media organisations in order to have their comments and opinions. During this process of public hearing the organisations can have some influence on the media legislation.

Research institutions have only a limited influence on Danish media policy, which perhaps is rare, since media regulation has become still more complicated both technically and legally. Media scholars are sometimes used as advisers when major media reforms are planned, and sometimes the ministries involved commission reports on a particular subject as background for policy making.

³⁶ Dansk Journalistforbund, “Om Dansk Journalistforbund” [About the Danish journalists organisation], available at: <http://www.journalistforbundet.dk/sw101.asp>, (last visited on 14/10/2010).

3.2 The media regulatory framework

3.2.1 Freedom of expression and information

In Denmark, *Grundloven* [The Constitution] from 1849 guarantees freedom of expression – revised in 1953 (§ 77), and prohibits censorship. This does not mean that the freedom of speech is unlimited. There are restrictions when it comes to utterances that incite to violence and offence due to sex, race and religion (*Straffeloven* [The Criminal Law] § 266b and § 140 on blasphemy) and defamation (*Straffeloven* [The Criminal Law] § 267).³⁷ The point is, however, that the utterance itself cannot be an offence to law; the content of the utterance can. The government cannot exercise any control of the content of the press, despite the fact that the government through media laws has a role to play when it comes to the structural regulation of the press and the general programming obligations of public media. Denmark has signed the European Convention of Human Rights in 1950 and in 1992 the convention was turned into Danish law (*Lov om den europæiske menneskerettighedskonvention* [Law on the European Human Rights Convention]).³⁸ Denmark is thus bound by Article 10 on freedom of expression.

Part of freedom of information is the ability for the media to gain information. This is guaranteed through § 65 in the Constitutional Law concerning public access to the administration of justice. *Offentlighedsloven* [The Information Act] requires openness and access to documents within public administration.³⁹ In *Retsplejeloven* [The Administration of Justice Act] there is a principle of open courts, which gives the media ability to gain information on court proceedings.⁴⁰

Anybody can start a medium without permission, except broadcast media, which require access to limited frequencies, as is the case for terrestrially, distributed radio and television. Usually, however, newly established media have to register, as it is also required for cable and satellite radio/television. All printed and broadcast media are automatically governed by the Media Liability Act.

All media in Denmark are responsible when it comes to copyrights, defamation and protection of private life. Most Danish media operate under the Media Liability Act. It is important to note that the Media Liability Act does not cover foreign media even though some of these are addressing a Danish audience, as is the case with the biggest private television channels on the Danish market. The law clarifies who are responsible within the media for the media content, and maintains that the content of the media and the way the media act have to be in accordance with sound press ethics. Moreover, the law sets out rules regarding the obligation to publish a reply. The Press Council [*Pressenævnet*], which is an independent, public tribunal, deals with complaints about the media. People, companies, associations, etc. who think they have been denounced by the media can lodge a complaint to the Press Council. The Press Council evaluates complaints in accordance with a set of Norms for Press Ethics.⁴¹ The system has a strong

³⁷ Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=126465>, (last visited on 01/10/2010).

³⁸ Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=12>, (last visited on 01/10/2010).

³⁹ Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=59474>, (last visited on 01/10/2010).

⁴⁰ Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=126338>, (last visited on 01/10/2010).

⁴¹ *Pressenævnet, Regler for god presseskik* [Norms for press ethics], available at: <http://www.pressenaevnet.dk/love-og-regler/Regler-for-god-presseskik.aspx> (last visited on 01/10/2010).

element of self-regulation, since the norms themselves are not part of the law. The Press Council can express its criticism if the ethical norms are violated, and it can order the media in question to publish the criticism. Moreover, it can demand that a person who has been mistreated by the press is given opportunity to retort.

3.2.2 Structural regulation

The regulatory framework has changed as the media system has grown during the years and has become more comprehensive involving many different sectors of society. All political parties in Denmark agree upon the fundamental aims of media regulation, namely on the one hand to guarantee the media freedom of expression in order to act in the service of democracy and democratic needs of society – and on the other hand to stimulate a versatile and pluralistic media system that serves all parts of the population and takes into account the cultural needs of society. The political consensus on the overall objective of the role of the media in society is striking and it seems to be one of the reasons why the media regulatory framework has evolved without major political conflicts.

The main criterion for public intervention in the market is whether or not media occupies limited frequencies. In terrestrial broadcasting the number of frequencies is limited, which calls for comprehensive regulation in order to ensure diversity. In print media and online media there are no use of limited frequencies, and the same is true with satellite and cable radio and television. This is why these media are less regulated than terrestrial broadcasting.

In the regulation of the printed press and non-terrestrial broadcast media the main aim is to ensure freedom of expression and to protect consumers' rights. The Press Council and the kind of self-regulation it practises are established in order to ensure these goals. When it comes to broadcasting, regulation is more complicated as several organs are involved. Regulation of radio and television was originally a result of the establishment of DR as state-owned monopoly institution – mainly as a way to ensure radio and television as a public service. The political climate in the 1920s when radio started was in favour of public services, and the same was true in the 1950s when television was introduced. Until the 1980s regulation of radio and television was regulation of DR, but later on, when the market was opened for competition, new types of regulation were needed. The political climate in the 1980s was clearly more market-oriented than before, which meant that regulation gradually changed in order to give room for private broadcasting. Regulation that opened the market did not stand alone, as a number of initiatives were taken in order to stimulate local and grassroot media and to create a second Danish public service broadcaster (TV 2). The complexity of the media system that evolved from the 1980s paved the way for new regulatory organisations, the independent regulatory authority, the Radio and Television Tribunal [*Radio- og tv-nævnet*], being one of them. The importance of regulation in order to ensure cultural policy goals (diversity, pluralism, national culture) has not really been questioned, and the public money spent on subsidising the media has been growing since the 1980s. Media subsidising requires even more regulation – and consequently also more control to ensure that the money is spent properly. Nobody questions the need for public funding of

the media, whereas the amount of money spent and which media companies should receive them is controversial. Until the 1990s media policy in Denmark was mainly about regulating access to the media market, but today it is more about the proper distribution of public funding and the specific requirements that follow the subsidies. The belief that regulation could protect the national culture and the national media institutions from the market and from foreign media has gradually been given up in favour of the view that positive media developments come from subsidies. This development is reflected in the organisation of a regulatory system in which independent regulatory organs such as the Radio and Television Tribunal, the Press Council and the Press Board ensure the principle of arms length between the media and the state.

Lov om radio- og fjernsynsvirksomhed [The Radio and Television Act] regulate radio and television operating from Denmark.⁴² Licensing rules differ according to the distribution platform used. Radio and television channels distributed through satellite or cable are licensed simply by getting a registration at the Radio and Television Tribunal, since this kind of broadcasting does not occupy public frequencies. DR and the TV 2 regional channels have a right to broadcast. TV 2/Denmark has a right to broadcast until 2013.

Regional/local terrestrial distributed television requires a licence, which the Radio and Television Tribunal gives on the basis of a so-called “beauty contest”. Only non-commercial broadcasters can get a licence. The Radio and Television Act states that DR has to operate 3 analogue FM-radio channels. The licences for the remaining 3 nationwide (or partly nationwide) analogue FM-channels are given by RTT and are based either on an auction (as is the case with Nova FM) or on a “beauty” contest (as is the case with PopFM – and is going to be the case for the 4th FM-channel that DR had run until now).

There are no ownership rules regarding Danish media, and there are no rules that prevent political parties or religious associations from owning media. However, media ownership can be affected by anti-trust legislation and legislation that seeks to secure competition. *Konkurrenceloven* [The Danish Competition Act] (Act No. 1027 of 21st August 2007) prohibits anti-competitive agreements etc. and the abuse of a dominant position.⁴³ In accordance with the Competition Act major mergers between companies cannot take place without permission from the Danish Competition and Consumer Authority. A number of mergers within the printed press have passed this kind of control.

In relation to the invitation of tenders for licensing FM-radio channels certain media companies have been excluded in order to avoid media concentration.⁴⁴ The decision to exclude particular media has been taken by the Danish Parliament as part of the legislation behind the licensing. The criteria used for exclusion is that media companies already having a licence and DR cannot participate. In relation to local media it has recently been clarified that municipalities cannot own media. This is not a

⁴² Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=131197> (last visited on 01/10/2010).

⁴³ Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=132775> (last visited on 01/10/2010).

⁴⁴ DR has been excluded from participating in the licensing of FM5 and FM6, and the owner of FM5 has been excluded from participation in the competition for getting a licence to FM6.

consequence of media regulation, but of rules regarding the kind of activities municipalities can legally operate.

The Radio and Television Tribunal is supervising Danish radio and television. The tribunal is an independent authority appointed by the Minister of Culture in accordance with the Radio and Television Act and the Promulgation on Rules of Procedure for the Radio and Television Tribunal (promulgation no. 201 of 28th of January 2010).⁴⁵ It consists of eight members representing expertise within legal, financial/administrative, industrial, media and art. One of the members is appointed by the Cooperation of Danish Listeners and Viewers organisations (SLS). The tasks of the Radio and Television Tribunal comprise evaluation of public service-reports from DR, TV 2/Denmark and the TV2 regional stations, licensing and supervision of terrestrial digital television distribution, licensing and supervision of terrestrial distributed radio and non-commercial television stations, and registration and supervision of satellite, cable and digital terrestrial television and radio. Moreover, the tribunal grants financial support to non-commercial local radio stations and non-commercial stations transmitting via Mux 1. Finally the tribunal decides upon violation of the rules regarding commercials and sponsorship.

3.2.3 Content regulation

Content regulation is exclusively related to radio and television and in particular to public service broadcasters. The public service broadcasters DR and TV 2 have to fulfil a number of programming requirements regarding diversity and quality in terms of programme types. In news and current affairs DR and TV 2 have special obligations towards fair and unbiased programming, and they have to pay attention to the societal importance of the news reported. As it is mentioned in the Radio and Television Act, public service broadcasters need to pay special attention to ensure freedom of speech.

In the Radio and Television Act the public service remit is articulated in general terms, as it emerges from paragraph 10. In paragraph 10 the fundamental principles of freedom of expression and the right to receive relevant information is stressed: “The overall public service activities shall through television, radio and Internet supply the entire Danish population with a wide range of programmes and services comprising news coverage, information, education, arts and entertainment. Quality, versatility and diversity must be aimed at the range of programmes provided. Within programming a primary concern for information and freedom of expression shall be taken. When it comes to information, emphasis must be placed on objectivity and impartiality. Programming shall ensure access to important community information and debate. There is also emphasis on Danish language and culture. Programming should also reflect the breadth of the production of art and culture and provide programmes that reflect the diversity of cultural interests in the Danish society”.

Some private media also have to fulfil content requirements. The 5th analogue FM-radio channel has obligations regarding the amount of news and current affairs

⁴⁵ *Forretningsorden for Radio- og Tv-nævnet* [procedures for the radio and television tribunal], available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=130031> (last visited on 01/10/2010).

programming⁴⁶ and the amount of Danish music played in the radio. Local radio and local/regional television are not obliged to fulfil any content requirements, but they have to live up to the programming they have committed themselves to when originally achieving their licensing from the RTT, as the RTT in accordance with legislation⁴⁷ has to pay attention to the overall diversity in local radio and television.

Ophavsretsloven [The Copyright Act] makes up a very important part of the publishing rules,⁴⁸ as it states that journalists and authors have copyright to their products both economically and ideally (that is a protection against altering a product and the right to have the author's name mentioned). Nevertheless, a number of restrictions to the rights exist, for instance when it comes to private use of different sources. The Copyright Act has particular rules for the Danish public service broadcasters as most of their programming is regulated through an extended collective licence (paragraph 30). For other media copyrights are often handed over to right holder organisations that administer their rights, as is the case with Koda (composers' rights), Gramex (musicians' rights) and Copy-Dan (authors' rights and rights regarding cable television). Right holder organisations must be approved by the Minister for Culture before they can make agreements within specified fields. The Minister for Culture stipulates detailed provisions on the procedure for approval of the right holder organisations. Questions on copyright and the role of Koda and Gramex are very important for the economics of the Danish media, not least when it comes to local media.

The Information Act [*Offentlighedsloven*], contains provisions regarding openness and access to documents within public administration. It plays a major role in the media's information gathering process as the media have a right to have access to files within the public administration. There are exceptions, however, when it comes to matters of a personal nature and matters of national security. A commission is preparing a revision of the Freedom of Information Act, and at the moment it is much debated whether a new law would extend or reduce the current amount of openness in public administration.

A number of bodies are entrusted with supervision tasks in relation to the media. The supervision bodies constitute an important part of media regulation as they aim to make the legislation function as intended by the legislators. As to the Danish printed and electronic press the Press Council handles complaints against the media in accordance with the Media Liability Act and can in particular cases by itself make accusations (*ex officio*). The Press Council shall rule in cases relating to whether the publication made is contrary to sound press ethics, cf. section 34, and whether under the provisions laid down in Part 6 of this Act a mass media shall be under an obligation to publish a reply, including the content, form and location of the reply. The Press Council comprises eight members appointed by the Minister of Justice. Two of the members shall be appointed upon recommendation by the Danish Journalists' Union, two members shall be appointed

⁴⁶ *Bekendtgørelse om Radio- og tv-nævnets udbud af den femte, jordbaserede FM-radiokanal* [Order on the tender of the fifth terrestrial FM radio channel], Bekendtgørelse nr. 393 of 02/05/2006 available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=11993&exp=1> (last visited on 01/10/2010).

⁴⁷ *Bekendtgørelse om lokalradiovirksomhed* [Order on local radio], Bekendtgørelse nr. 881 of 17 September 2009, and *Bekendtgørelse om ikke-kommercielt tv i MUX 1* [Order on non-commercial television in MUX 1], Bekendtgørelse nr. 882 of 17 September 2009.

⁴⁸ Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=129901>.

to represent the editorial managements of the printed press and radio and television upon recommendation by these media, and the Danish Council for Adult Education shall appoint two members as public representatives upon recommendation.

The Boards of DR and TV 2 supervise that DR and TV 2 respectively operate in accordance with the requirements of the Radio and Television Act and the public service-contracts. Each of the regional TV 2-stations has a council that supervises the activities of the stations.

DR's board has 11 members appointed by the Minister for Culture. Three members (including the Chairman) shall be nominated by the Minister for Culture, six members shall be nominated by the Danish Parliament, and the permanent staff of DR shall nominate two members and two deputies. The Board shall represent expertise in media, cultural, management and business affairs. It shall have the supreme executive authority over DR. It shall have overall programme responsibility and responsibility for the observance of the provisions laid down by The Radio and Television Act.

TV 2's board consists of nine members, six of which are appointed by the Minister of Culture and have to represent expertise within media, law, business and managing, cf. Statute for TV 2/Denmark Limited (of 11th of May 2010).⁴⁹

The Consumer Ombudsman decides and supervises advertisements in the printed press and online media and in some of the cases of advertisements within radio and television supervision. The Marketing Practices Consolidation Act covers the activities of the Consumer Ombudsman. The Consumer Ombudsman is an independent supervision authority appointed by the Minister of Economic and Business Affairs.

In general the organs mentioned above are fulfilling their duties as intended in the legislation. This is perhaps not surprising, as public administration in Denmark usually operates quite effectively. It is, however, worth mentioning that the bodies with supervision tasks operate in different ways and are entrusted with different powers. The Radio and Television Tribunal is without doubt the most important regulatory body, as it covers most of the electronic media and has the power to regulate effectively. If a media company neglects the decisions taken by the RTT, the RTT can impose various sanctions on it. In practice the media companies follows the rules, and only rarely has the RTT found it necessary to withdraw a licence from a media company. Now and then the effectiveness of the Board of DR are discussed, primarily because some of its members have taken political controversial standpoints against DR or have tried to intervene in the daily operations of the institution.

No Danish rules regulate search engine results, such as the filtering out of search results based on keywords that might lead to harmful content (i.e. homepages of racist groups). One of the few examples of systematic internet censorship is the filtering out of sites containing child pornography. The scheme consists of so-called DNS-filtering, blocking all queries to sites listed in a blacklist database and routing the user to a site

⁴⁹ Kulturministeriet, "Vedtægter for TV2 Danmark A/S" [Statutes for TV2 Denmark PLC], available at: http://omtv2.tv2.dk/fileadmin/user_upload/pdf/Vedtaegter/Vedtaegter_TV_2_dk_28.04.2010.pdf (last visited on 01/10/2010).

showing a stop sign and a description of the scheme.⁵⁰ Technically the scheme is implemented at the ISP level, and all major Danish ISPs participate, but a number of smaller ISPs do not.

Another recent example of systematic internet censorship is found in a verdict from the Danish Supreme Court which mandated all ISPs to block queries to the site www.thepiratebay.org (a website indexing bittorrent files), as the site was found to participate in the distribution of copyrighted material. The verdict has generated a debate about the possible consequences for the legal rights of other site owners, since the verdict specifies that the ISPs should not participate in making the website and its contents available to their customers.

3.2.4 Other media policy tools

In Denmark media policy has for the last twenty years been developed in relation to political agreements between the political parties in Parliament. Agreements are made every fourth years and cover in particular the programming requirements for DR and the amount of licence fees. However, the political agreements also cover many other areas of media policy and have in recent years been quite comprehensive documents that stipulate which reforms are going to take place. The political parties produce policy papers carrying out their own ideas of media policy – and bring them into the negotiations that lead to the agreement.

Sometimes media policy is developed in a more open way by establishing commissions to analyse the media system and to point at possible solutions to specific problems or challenges that the system faces. The idea of this kind of work is to have a more comprehensive, better informed and less politicised debate on media matters. In the 1980s the government set down a Media Committee, which gave out a series of analyses and proposals, and in the 1990s a similar committee prepared a number of reports.

Expert reports and analysis do play an important role in the development of media policy, but it does not mean that policy decisions are handed over to the experts. Especially when it comes to questions concerning media technology and economics experts are involved in establishing background information. It should be mentioned here that some of the non-governmental organisations such as the Newspaper Association and the association of internet media (FDIM) produce media policy reports themselves in order to have influence on government media policies. Also the public service broadcasters produce policy papers formulating their own view of the media situation and what the politicians ought to do about it.

4. Media policy and democratic politics: an assessment

Taking into account that Denmark is such a small country the Danish media system represents a relatively high level of diversity and quality. This is not a result of a free

⁵⁰ For details see Rigspolitiet, “Om blokering” [On blocking], available at: http://www.politi.dk/da/borgerservice/boernepornofilter/om_blokering.htm (last visited on 05/10/2010).

media market, but comes from a combination of regulation, subsidising and market forces – and high professional standards within journalism.

Freedom of expression is an important issue in Danish media policy and it has been discussed widely during the years. In Danish legal literature the scope of paragraph 77 of the Danish Constitution is one of the main topics, as most scholars agree that the paragraph only grants a formal protection of freedom of speech prohibiting any kind of censorship. More recently the discussion has focused on Article 10 ECHR and ECtHR rulings, particularly after the Danish High Court decided to follow the ECtHR's jurisprudence, thus setting a new course in Denmark. Some scholars found that the Danish High Court went too far in acknowledging a more progressive freedom of speech for journalists and the (new) role as a "public watchdog", instead of choosing a more moderate national interpretation of Article 10 with more consideration given to the sanctity of privacy. The relationship between Article 10 and the Danish Copyright Act is also being tested by the press and discussed. Newspapers have in several cases printed extracts or even whole manuscripts referring to freedom of information and freedom of speech and Article 10 ECHR, even though the copyright infringement is quite obvious. Some legal scholars see this as a tendency not only in Denmark, but also in other European countries, and suspect that it may be necessary to revise the Danish Copyright Act (*Ophavsretsloven*) and take freedom of speech into account in certain circumstances.

The media in Denmark are, as we have seen, marked by comprehensive regulation, especially in regard to nationwide radio and television, whereas the printed press and online media are less regulated. Moreover, broadcasting as well as the printed press are heavily subsidised and are to a great extent dependent on public funding.

The main objective for media regulation is preservation of national media and diversity and plurality within the media. For a small and open country as Denmark this is imperative, since an unregulated market would lead to dominance by foreign media companies and in broadcasting there would be room only for foreign programmes. In the Danish case, then, regulation aims at compensating for the unwanted consequences of free market forces on the one hand, and at providing funding mechanisms for domestic media and domestic media products on the other. Media in Denmark – in particular the printed press and radio and television - are very dependent on both regulation and on public funding.

This dependency is in principle problematic, as the state in practice is responsible for the wellbeing of most of the media. This does not mean that all media are state media. The printed press is privately owned, and in broadcasting the public service media have a relatively independent position in relation to the state. However, the combination of a very open society, in which journalists have easy access to information about public administration, and a media system based on major public funding can lead to conflicts between politicians or government and the media. Regulation aiming at diversity, plurality and preservation of domestic media and culture does not fit easily with the ideals of press freedom. These ideals are, as we have demonstrated, nevertheless very important in Danish media politics, and in many ways a balance between considerations for proper funding and the independence of the media has been achieved. However, it is disputed what the proper balance should be, and particularly in relation to the governing of public service media, questions about political pressure have been raised. It can be

argued that politicians and government have too much to say regarding public service media, and there is clearly a risk of abuse of power.

Danish media regulation does protect freedom of speech, which was demonstrated in the so called cartoon crises where the Danish newspaper *Jyllands-Posten* in 2003 published a number of cartoons that offended Muslims around the world. The cartoons were published in order to create public debate about self-censorship in Danish media, as the *Jyllands-Postens* editor assumed that many journalists and writers feared religious fanatics. Yet, in another case regarding the Kurdish television channel ROJ TV transmitting from Denmark the legal protection of freedom of speech is going to be tested. The Turkish government has claimed that ROJ TV is supporting terrorism, and recently the Danish public prosecutor has decided to charge ROJ TV formally for violation of The Criminal Act paragraph 214e (on terrorism). However, it is not decided whether the court will refuse the case, as the court cannot decide on licensing of radio and television. Licensing of radio and television can only be performed by the Radio and Television Tribunal.

More important to Danish media politics than freedom of speech is the balance between the various media, as market developments and the emergence of new digital media changes the old balance between electronic and print media and between public and private media. Public media have a dominant position within radio and television, and therefore media regulation primarily deals with the regulation and funding of the public service media. The actual size of public service media has a heavy impact on the economic possibilities for the private media. When DR and TV 2 expand their activities it makes it harder for private broadcasters to earn money. This is why media policy often has mixed goals. You cannot support public service broadcasting without damaging the private sector, and you cannot improve conditions for private media unless you reduce the scope of public service media.

The difficult art of achieving a proper balance between public and private media is becoming even more difficult as new media emerge and the old borders between different media types become harder to draw. One of the most important challenges to Danish media politics is how to adjust the media subsidising system in order to stimulate diversity and cultural quality in new media – and how to develop a system that has this kind of stimulation without loosening media independence and freedom. Within the next few years new ways of subsidising the media will most likely be introduced as the current system favours “old” media and makes it very hard for new online media to achieve sufficient quality.

A major challenge is how to support the printed press which finds itself in serious financial problems, as the number of subscribers declines and a growing part of the advertising market moves from the press to online services such as Facebook and Google.

Another important challenge to Danish media regulation is the implementation of the European media legislation. As a consequence of the Television without Frontiers Directive Denmark has become very open to influence from foreign media companies benefitting from operating from abroad. The principle of jurisdiction within the Directive has paved the way for a number of foreign television channels broadcasting from London to a Danish audience. This means that a huge part of Danish television is out of reach for

the Danish authorities, which leads to unfair competition, as the channels do not have to fulfil programming obligations (they do not even fulfil the requirements regarding quotas for European programmes). This is the reason why questions regarding jurisdiction are quite important in current media politics.

Also worth mentioning is the challenge that comes from the European regulation of public service broadcasting in relation to competition policy and state aid. The trials against TV 2 for overcompensation are raised by the London-based channels broadcasting to a Danish audience, and they clearly demonstrate the fact that the size of the Danish media market makes co-existence of public and private media very difficult. In the beginning cases against public service broadcasters were mostly raised by private television stations and were about financing the traditional broadcasting services, but now the disputes are also about the public service media activities on the Internet and mobile media. In these cases the newspaper publishing business seems to be an important actor, as it regards strong public service media as a threat to its own activities within the field.

In Danish media politics this trend combined with the growing financial problems within the printed press will probably lead to new conflicts between public service media and the printed press. Politicians have so far been able to support both public service media and the printed press, as the two media branches were able to co-exist relatively peacefully, but in the future it is probably going to be more difficult.

There is a very strong cultural tradition in Denmark that supports regulation and public subsidising in order to maintain pluralism, diversity and national culture, as cultural politics is such an integrated part of welfare politics. The political conflict between “state” (regulation) and “market” (deregulation) is obviously also present within Danish media politics, but it is subordinated to a tension between national and international culture. So far media regulation and public subsidising of parts of the media has been seen as an important “wall” against foreign media. This is one of the main reasons why cultural policy still has a lot to say in an otherwise still more commercialised and internationalised media system.

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