

4. SUMMARY OF THE SCIENTIFIC OPINION ON THE COMMUNICATION AND MEDIA REPORT OF THE FEDERAL GOVERNMENT

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4.1 ON THE STATUS OF THE OPINION

The aim of the scientific opinion is above all to provide a well-organized, comprehensive and neutral source of information as the basis for identifying policy options and framework conditions. Here the emphasis is on the importance of communication and media for politics and society rather than on economic aspects, although these are of course considered as structural givens.

Media convergence is not limited to technology, but also results in hybrid forms of media which make it difficult to keep maintain strict divisions between the different areas reported on. The scientific opinion concentrates on “public communication”, thus covering traditional media as well as new forms directed at a public audience, though not forms such as e-commerce, e-learning or classic communication between individuals like e-mail and telephony.

The report covers the period from 1998 to 2007 in order to ensure continuity with earlier media reports. Available sources were assessed and analyses were added to the representation of facts in order to prepare perspectives and options for action to be discussed in a scientific way in the media policy debate. The report draws on the expertise of the staff of the Hans Bredow Institute and additional experts who participated in five workshops.

4.2 FINDINGS AND TRENDS

4.2.1 Individual media areas

4.2.1.1 Press

Since 1997, the number of **daily newspapers** sold by subscription and of newspaper editions has fallen, while circulation and penetration have also steadily shrunk, particularly among younger age groups. After 2000, the overall economic situation led to a collapse in advertising revenues, and the Internet began to assume increasing importance especially for classified advertising. Many newspaper publishers are still experimenting with their online strategies, in particular with regard to models of financing and positioning relative to their print editions.

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Nonetheless, daily newspapers appear to have lost little of their status in the area of public communication. Newspapers continue to be regarded as the most important sources for comprehensive information and background, and local and regional news coverage. Despite numerous efforts to make newspapers appear more entertaining by means of colour, pictures, new layouts or choice of topics, the key functions of the medium still have to do with providing information.

Despite intensive competition in the market for **magazines**, the industry is dominated by a few well-established publishers. The entire industry is struggling with falling sales, which some of the large publishers are attempting to counter by expanding abroad. Specialized journals and weekly advertising sheets also experienced reductions in the number of titles, editions and revenue after 2000 but have managed to consolidate since then.

For some time now, magazines have represented a highly specialized segment of public communication; as a result, their special functions have to do with satisfying very specific interests. No systematic shifts in general indicators such as circulation and length of reading time among the general population have been apparent in recent years, but a closer look reveals a great deal of movement in the industry. Numerous new magazines are being launched while existing publications are relaunched or discontinued, evidence of a great deal of experimenting in the hope of meeting readers' interests, which are apparently subject to great fluctuation. Magazines in particular are subject to rapidly changing social trends which influence readers' interests.

The market for **books** is characterized by two trends: a growing number of titles – with Germany among the leaders in European comparison – and shrinking numbers of independent publishers.

Because books are not an advertising medium, the data on readers are not as differentiated as for other media: 21% of the population aged 14 and over reads books almost every day for recreation, and the length of time spent reading each day has once again risen. Studies show that more people are reading in smaller segments, skipping sections and reading more than one book concurrently.

4.2.1.2 Audio recordings

The number of new releases in classical and popular music has risen significantly since 1997. Compared to the 1990s, slightly more singles in the "top-100" charts are now domestic productions. Overall, sales of popular music have declined, while revenue for new genres such as audio books has grown.

Since 2000, sales of music CDs, cassettes and vinyl records have fallen dramatically. According to the music industry, this is above all due to illegal distribution of music over the Internet and illegal copying of CDs. Online distribution has shaken up the industry and brought forth new actors (such as device manufacturers like Apple); a shift to new business models and strategies for online sales is now under way.

Falling CD sales are by no means an indication that music is losing social significance or listeners. Taking 2005 as a reference year, the proportion of the population listening to recordings – CDs, records, cassettes and MP3 files – was higher than in all previous surveys. The length of use has also risen significantly. The number of users varied strongly by age group, with the most users among those aged 14 to 19 and the least among those aged 60 and over.

4.2.1.3 Film and video

Although the number of German film productions has greatly increased, foreign films, above all U.S. films, continue to dominate in terms of both screens and video rentals. Support for the national film industry is provided by film subsidies at federal and state level, which have been expanded significantly over the past years.

In 2007, the average German went to the cinema 1.5 times a year. Despite some fluctuation, the percentage of persons who actually do go to the cinema at least once a year rose slightly in recent years to a peak of 43% in 2006. Film continues to be a medium for younger people in particular. Faced with the worry that growing Internet use could threaten the film industry as it has the music industry, the industry has responded among other things by making films available online and adding extra features to make DVDs more attractive to buyers. Overall, the German film industry largely depends on film subsidies.

4.2.1.4 Radio and television

Radio and television are subject to a special regulatory framework in the form of a dual broadcasting system, in which public radio and television financed mainly through licence fees exists alongside commercial radio and television financed mainly through advertising, though increasingly through pay-TV mechanisms. Because broadcasting receives so much public attention and stakeholders such as the Regional State Media Authorities constantly deal with broadcasting issues, the report can refer to these sources. The description and regulation of this area is currently most affected by challenges arising from convergence.

Until the early 1960s, **radio** was the dominant medium for evening entertainment. After being almost entirely replaced in this function by television, radio evolved into a medium accompanying listeners throughout the day, with a special role in providing local and regional information and services. Overall, public attention has somewhat shifted away from radio, although the medium actually continues to play an important role in public communication because it is closely integrated into the daily routine of large numbers of people who listen for long periods, and because radio is able to reach groups which hardly use other information media. This general trend contrasts with very different developments in certain population groups: For example, in recent years 14- to 19-year-olds listened to the radio much less frequently than other groups, and in 2007 their listening decreased again to 95 minutes per day.

Television has long been considered the most influential medium in society. No other medium receives as much public attention or is so often discussed and covered in other media. The amount of time spent watching television has steadily increased in recent years, underscoring the medium's attractiveness and confirming survey findings indicating that people regard television as by far the most important medium. But television has suffered a significant loss of credibility in recent years. Ever more specialized programming has also been associated with increasingly fragmented audiences, leaving individual shows with less educational and integrative impact.

Challenges to the medium result from the development of new media, in particular the various forms for offering audiovisual content on demand and the spread of various pay-TV models. The attempt to finance commercial programming through premium subscriptions or pay-per-view has placed commercial television under pressure. From a scientific perspective, the occasional reference to commercial television as a "medium for the lower classes" can be seen as an exaggeration for polemical purposes of the fact that most commercial television viewers have less formal education and lower income than the average population and public television viewers. But this polemic fails to do justice to the broad popularity of television, including commercial programming, among all segments of the population.

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4.2.1.5 Online media

The Internet is not a homogeneous medium, but rather a “platform” on which widely varying media along with other forms of transactions and communication can be used. It is obvious that the quantity of media content published online is growing significantly, due to the increase in both professionally produced and edited content and user-generated content. Further, the Internet brings together different kinds of public communication, for example when videos published on Internet websites are broadcast on television, or when users forward and comment on professional editorial content.

Although the amount of Internet content may seem overwhelming, some concentration of user traffic is apparent, leading to higher market share for certain sites. For example, nearly 90% of all search queries in Germany (unlike other countries) are conducted using Google, the market leader in the field of Internet search. This strong position also leads to dominance in the market for search engine advertising, which is assuming increasing importance alongside classic online advertising. The websites of traditional media (newspapers, magazines and broadcasters) have had the most success with online advertising, which does not mean they are always profitable, however.

Online media now deserve to be viewed as serious forms of public communication. In the early days of Internet expansion, there were still major differences between Internet access among different segments of the population; in recent years, however, the question of how Internet providers and users actually apply the technology has moved into the spotlight. So far, the Internet has primarily functioned as a source of information, even though 14- to 19-year-olds mainly use it for entertainment purposes.

In order to use the Internet, one must have access to a computer. Computer access continues to improve, even though in 2007 nearly 40% of the population had no computer at home. In early summer 2007, about 63% of the population over age 14 were Internet users; despite strong growth since the mid-1990s, certain differences between socio-demographic groups remain. By far the most Internet users are men, younger and employed persons, not least due to computer access at work or university. But older people have made significant gains in Internet use in recent years.

Statistics on Web 2.0 use, which includes user-generated content and social networks, are still in the early stages. Data available so far indicate that this remains a minority phenomenon, judging from the public discussion of this term. Exceptions are the online encyclopaedia Wikipedia and video websites like YouTube, although most of their users tend to be passive recipients. Applications like blogs, network platforms or digital (game) worlds such as Second Life, which require more user interaction, have fewer users, although there is a major divide between users under and over 30.

Nearly one-third of Germans say they play computer or video games at least occasionally. Although teenagers dominate (in 2007, 76% of 14- to 19-year-olds played computer or console games), the proportion of older and female players is growing. Studies on the use of games by children and young people show that the widespread image of a socially isolated computer gamer overlooks an important aspect: For many players of online games in particular, such games offer an opportunity to cooperate with or measure their performance against other players.

4.2.2 Aspects applicable to all media

4.2.2.1 The relationship between old and new media

The research results on substitution and complementarity between old and new media appear to be contradictory: On the one hand, they indicate great stability in the use of classic media: None of these media has so far experienced a dramatic collapse; the only apparent long-term trend is a slight increase in the length of time spent watching television and less time spent reading newspapers. On the other hand, however, major shifts are apparent among certain user groups (e.g. young people) and for certain media (e.g. SMS, MP3 players, computer games) with regard to media and content. Overall, it seems that habits of media use are so strongly engrained in daily routines that they are initially affected only marginally by the new communication options. But these changes are important harbingers of longer-term shifts in public and individual communication and therefore deserve special attention.

Attempts to describe the interaction between old and new media offerings analytically in order to arrive at forecasts often use the terms substitution and complementarity. However, far-reaching substitution effects are usually limited to very specific technical options for distribution. Obvious differences in function remain between the main types of media, but substitution effects between these types of media can arise where they compete for users' limited time and financial resources. A significant increase in the amount of time spent using the Internet can lead to reductions in the amount of time spent watching television, listening to the radio, or reading newspapers, magazines or books. Empirical results concerning such substitution effects have so far been ambiguous. When asked whether their Internet use has led to reduced use of other media, usually one-quarter to one-third of Internet users responds in the affirmative. However, this result has not been confirmed by direct studies of actual usage; Internet users spend as much time watching television as persons who do not use the Internet. Time budget studies imply that new media are often used in parallel with other media, and that non-media-related activities are cut out of the time budget. When analysing these results, however, it should be noted that the group of 14- to 19-year-olds already demonstrates dramatic shifts in media use: They already spend more time on the Internet every day than they do listening to the radio, and nearly as much as time as watching television.

4.2.2.2 Economic and technical aspects

In the Federal Republic of Germany, the media industry is heavily concentrated in the five cities most important for the media industry: Hamburg, Berlin, Munich, Cologne and Frankfurt (Main), where more than 20% of those working in the media sector are employed.

In economic terms, the media are important conveyors of advertising. During the reporting period, the advertising market in Germany underwent major fluctuations: From the late 1990s until 2000, the market was booming, with steadily rising revenues. This was followed in 2001 by a collapse in the volume of advertising and steadily shrinking advertising budgets until 2004. Since then, advertising budgets have resumed growth, although without reaching the peaks of 2000. Specialized journals and daily newspapers experienced the greatest losses, while the significance of online advertising has been growing significantly. Search engine advertising now accounts for almost half of the money spent on online advertising. Overall, the trend towards online advertising is leading advertisers and media agencies to focus more on precise targeting and payment "per click". In combination with possibilities for avoiding advertising, for example through digital video recorders, integrating products into television programming (product placement) look increasingly attractive as ways to generate revenue.

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Electronic media depend on transmission channels, i.e. telecommunications networks. Digitizing all transmission channels, which is an important goal of technology and media policy, has not yet been achieved, but significant progress has been made. For example, in 2007 43% of all households with a television had digital reception (terrestrial 9.9%, cable 8.7% and satellite 24.4%). Germany now has a higher rate of broadband coverage, the necessary prerequisite for multimedia services, than the US, although complete geographical coverage is seen as a problem. As a result, wireless networks are receiving more attention and being tested as possible models.

4.2.2.3 Societal relevance

The findings and trends described in this report are significant not only for publishing and the economy; they also have far-reaching influence on society. Though the terms “information society” and/or “knowledge society” may be somewhat vague, communications infrastructures and processes are becoming increasingly important for work, learning, civil society, politics and many other areas of social interaction. In the wake of these changes, the criteria for judging the societal relevance of communications phenomena may well shift. But certain fundamental norms remain, such as those derived from the protection of communications processes in Article 5 (1) second sentence of the Basic Law, the substance of which the Federal Constitutional Court is constantly retuning in view of real changes.

The value objective of free individual and public opinion-formation identified by the Federal Constitutional Court is so fundamental that it remains highly relevant for the order established by the Basic Law no matter how communication changes. It is the court’s great achievement to have realized very early that threats to the freedom of public communication may arise not only from the state, but also from powerful private interests, and that it is a constitutional task of the state to take all possible action to prevent editorial and economic dominance in the communication process. It is now necessary to examine what appropriate protection or even a regulatory framework if necessary would look like for new Internet-based services. It is becoming clear that not only are there different forms of published content, but that the organization of production is also changing. The rise of alternative forms of information production and distribution in the development known as Web 2.0 is a related phenomenon, as is the fact that other, mediating service providers are playing a growing role in the process of public communication as providers of platforms, Internet navigation software and search engines and as such are the focus of public and legal debate. For constitutional reasons alone, it is important to keep an eye on their relevance for the process of free individual and public opinion-formation.

Another shift in perspectives which is already apparent is the transformation – some would even say disappearance – of the public forum as we know it. The influence of change on functions which this public forum fulfils for a society indicates its relevance for communications and media policy. In the past, ensuring equal access to the “market of opinions” was regarded as a central problem; today, given differences in media use and the resulting fragmentation of media offerings, it is possible to ask whether the very existence of this “market”, which is so important for democracy, is threatened, or whether there are different, loosely connected forums. But findings on the development of media use and offerings demonstrate overlapping content between offerings and that rather than combining content within a single media offering, various information may be linked.

To continue applying the market metaphor – although it certainly has its ambiguities – it is of social relevance that not only providers, but also consumers may encounter obstacles hindering their practical access to information or at least making it more difficult. This problem has gained media policy attention in the debate over non-subscription encrypted broadcasting (“free-to-view”). Related to this is the serious worry that participa-

tion in public communication and access to relevant knowledge might be unequal. Excluding whole segments of the population from certain relevant media forms would risk creating a digital divide. Such issues also impact on the role of public broadcasting, the planning of transmission infrastructure and rules on broadcast financing.

The central feature of a regulatory framework for communications and media should be freedom as described above. However, other value objectives also claim societal relevance, including openness to innovation: The more a society depends on communications and knowledge infrastructure for management, learning or cultural exchange, the more important it becomes for the system to be open to new developments. So processes encouraging – or stifling – innovation also have societal relevance. These considerations too may have very practical impacts on communications and media policy, for example when it comes to strategies for promoting audiovisual content.

As a medium of reflection, the public forum also affects the way a community views itself, so that multifaceted integration issues gain significance. This concerns the question as to how changes in the communications landscape affect Germans' view of their culture as well as the rise of a "European consciousness", possibilities of intercultural communication and the treatment of foreign values, lifestyles and patterns of interpretation.

These processes may be relevant not only for democratic and cultural processes, but also for individual development. Following the rather utopian discussion of virtual worlds in previous years, the virtual is now becoming part of everyday life; for the younger generation, profiles in various Internet communities and forums are part of self-presentation and keeping in touch. The changes associated with this touch on very fundamental ideas, such as managing one's own identity and the personal data on which it is based, distinguishing between the private and public spheres, forming interpersonal relationships and developing new social rituals, as found in certain Internet communities.

4.3 STARTING POINTS FOR COMMUNICATIONS AND MEDIA POLICY

Also with regard to starting points for communications and media policy, one may choose a narrower or broader focus. Taking a broader focus, it is clear that in the area of media regulation, concentrating only on state regulation is not enough, not only because the state can achieve regulatory goals using promotional instruments, but also because this area is increasingly influenced by non-state rules which the state must take into account in its activities. In scientific terms, this is often described as a shift from a state management perspective to a governance perspective.

Apart from legal norms, two structuring processes in particular play a role in the scientific discussion of communication and media: the development of various social regulatory systems and the process of determination resulting from technology and software (the "code"). Knowing about these two processes is essential background for media policy considerations.

With regard to social rules, the example of search engines demonstrates that those services developed in a more technical-mathematical environment can also play a significant role in public communication. If one appeals to providers' sense of responsibility for public communication and refers to principles of equal opportunity recognized in the field of communications, one sometimes meets with the response that the provider offers purely technical services and has nothing to do with these issues.

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In this context, “code” refers to the structure of software applications and their combination in complex architectures which enable interaction and public communication. This structure is not simply neutral technology, but instead has a major influence on the social processes carried out with its assistance: “code is law” (L. Lessig). For example, software structures determine the form of Internet social networks, what kinds of links to other persons are possible, how much control users have over their personal data and whether they can move to other platforms. Here, too, while such codes raise obstacles to communications and media policy action, they also make certain things possible for the first time.

In view of the changes forecast, it is also very relevant for society how those things viewed as relevant for public communication are distinguished and structured. One symptom is the perpetual discussion of the term “broadcasting”: How far does the mandate of the public service broadcasters extend? Are rules based on broadcasting appropriate for telemedia, or should one rather follow the model of print media? Regulation here is still very model-dependent. One starting point for reforms could therefore be a neutral consideration of which opportunities and risks are inherent in the various communications offerings.

With regard to diversity at the provider level, which so far has been the most important approach for ensuring diversity, developments in recent years indicate that the trend to concentration in the individual media markets will increase. In the area of print media, we can see the formation of regional monopolies of daily newspapers, and publishing houses are merging or making cooperation agreements with each other. In 2006, the ten largest publishers accounted for 56% of all German dailies printed, while the five most important printing corporations accounted for 97% of newspapers sold. The market share of the four largest magazine publishers added up to more than 60%. Radio is becoming increasingly concentrated due to the fact that many members of radio consortia have sold their shares to larger companies. In television, the two largest commercial broadcasting conglomerates, RTL Group and ProSiebenSat.1, attracted 46.1% of the viewing audience and nearly 95% of advertising revenues in 2007.

Anti-trust law is especially important in this context. It has considerable influence on ensuring access to communication, although it is oriented on economic rather than editorial influence and is structurally unable to deal with growth in market share within a single company. Nor does it provide for ongoing supervision, but only for intervention at certain points in time.

The law of the Länder to ensure media pluralism is currently based on broadcasting. It covers multimedia influence on opinion only if broadcasting is involved. This means that current regulations could not prevent excessive influence on opinion that might result from controlling search engines and print publishers. However, moving to an overall market model which takes into account all possibilities for influence on public opinion-formation proportionally would require developing the necessary indicators to show the influence exerted by various media and weighting the results within an attention model. Against this background, one possibility for further development would be incrementally adding to the current model while acquiring knowledge for future steps. Another challenge is to include the actors who do not have direct influence on opinion-formation as editorial decision-makers, but as “meta-media” such as navigation software do influence how other media are used.

Media play an essential role in cultural self-understanding, so media policy decisions have at least an indirect influence here. For this reason, media policy aims at including long-term access to audiovisual cultural goods. According to the German Council of Science and Humanities, current projects guided by strategic market interests are not sufficient to ensure access to the historical extent necessary.

In view of the digital divide debate, a central issue for communications and media policy is how to avoid the risk of a technologically determined ideology of the information society. This risk was especially great during the early phase of Internet use, when it looked as though technical access to the Internet would be a sufficient indicator of national economic development and competitiveness and of individuals' readiness to face the future. The issue remains of how to ensure equal opportunity access to new communications and media services. This requires examining how to remove financial and technical obstacles as well as those related to motivation and competence which systematically hinder access for certain user groups.

Overall, data on the communications and media sector seem surprisingly spotty, given the sector's social and economic significance. Because statistics seem to be a prototype for bureaucracy, cutting back on statistics is apparently considered desirable for a modern state. In areas such as print media, the lack of official statistics can lead to difficulties in arriving at an independent assessment of the current situation among publishers. As of 1999, the Federal Statistical Office no longer assesses the media budgets of individual households. Overall, the continuous and necessarily relatively static and small base offered by official statistics – which remain important and should possibly even be expanded – could be supplemented by information provided by the sector itself; models of self- and co-regulation for information-gathering purposes are worth considering.

In addition to legal regulation, the public media critique contributes to steering the media system. Initiatives have been launched to remedy the low level of institutionalization by introducing an independent media testing organization on the model of the non-profit consumer protection foundation Stiftung Warentest. To ensure a stable network of media critique, permanent, independent media research and a critical dimension to journalist training are important prerequisites. Concerning possible links to the media industry, reference should be made to proposals aimed at a media governance initiative intended to make it easier for media companies to fulfil their special social responsibilities by orienting themselves more on stakeholder models.

4.4 REFORM OF THE REGULATORY FRAMEWORK FOR COMMUNICATIONS AND MEDIA

The regulatory framework for communications and media is characterized by ongoing adjustment to technical, economic and user circumstances in a complex, multi-level system of EU, Federation and *Länder*, which have the primary legislative responsibility for the content of this framework. The report describes what has been achieved in this area and identifies starting points for further optimization. The report refers to current activities and assessments in special areas such as protecting young people against harmful media and long-term funding initiatives for child-appropriate media.

This also means that the two main regulatory levels of technology and networks on the one hand and content on the other intersect in ways that are not always perfectly coordinated. The report refers to the scientific discussion criticizing the distinctions drawn between the scope of the different regulations. The area of frequency policy in particular shows that the communications and media policy aspects should be discussed in the larger context, since assigning frequencies for Internet use, for example, means that the same frequencies are no longer available for broadcasting.

With regard to forms of regulation, the report refers to studies of the potential for self- and co-regulation. The implementation of the Directive on Audiovisual Media Services will raise the issue of additional possibilities for co-regulation in Germany as well. The report also makes clear that in Germany, unlike other countries, legislation applied by self-regulatory bodies covers only certain areas, although the speed and distribution of

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knowledge in complex media structures is rising. Greater demands on legislators require appropriate organization within the administration and the parliaments themselves. In this case, federalism may lead to competition for the best regulation, but it also places high demands on interfederal coordination. Regulatory strategies such as model projects, pilot projects and experimental legislation may be advantageous in this area.

With regard to the supervisory structures, various models are conceivable, from further streamlining federalism to a single regulator model, which is often discussed and usually rejected for constitutional reasons. The synopsis of various proposals can serve as the basis for discussion, above all at *Länder* level.