Essential Principles for Contemporary Media and Communications Policymaking

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Acknowledgements

1. Introduction

This report proposes principles to guide contemporary media and communications policymaking in democratic countries seeking to improve the contributions those operations and systems make to society. It articulates statements of principles to inform the development of policy objectives and policy mechanisms and to provide consistency across varying issues, technologies, and actions by defining fundamental criteria that can be used to inform discussion and guide policy decisions.

Media and communications policies are central to many of the social and political issues that societies face today. Policies pursued in the past for broadcasting, telecommunications, and media are often inadequate for contemporary media and communications. The complexities of contemporary digital systems and networks, cable and satellite operations, internet-distributed content, social media, and cross-platform activities necessitate different methods to address the issues and challenges they pose. Domestic policies can address some issues, but global policy is progressively more germane to address communication challenges. Establishing policy principles to guide both domestic and international decisions is crucial if effective, coordinated, and socially beneficial policies are to be developed.

Many existing policies are unable to respond to rapid technological, economic, political, and social developments because they are not clearly founded in policy principles but were primarily developed to address particular media and communications challenges at specific points of time. Fundamental principles, however, remain constant and can provide guidance on how to respond to new concerns and challenges and to make appropriate policy choices.

Consequently, this report steps back from specific policy measures to articulate principles that are relevant and applicable to a wide range of media and communications platforms, infrastructures, and activities addressed at the local, national, regional, and global levels. The purpose is to help policymakers and policy advocates think initially at a more principled level and then link policy objectives and tools to these normative foundations rather than merely seeking immediate problem solutions.

This report addresses policy principles for many challenges and issues involving media and communications, but it is not intended as a signal for policymakers to intervene in all the areas discussed. It also recognises that private and public resources can be employed and guided to address the challenges, but that both these resources are finite. Policies should not inhibit private investments in infrastructures, systems, content, and innovation, because these provide social benefit, but neither should private interests be privileged to ignore public interests. Public resources can also be marshalled to address some media and communications issues, but public resources are also limited and not all desired interventions can be effectively addressed by those alone.

This report offers principles should intervention be pursued. Policy interventions should be sought only when problems and risks are manifest and

when it is likely that policy will successfully remedy them. Perhaps the most important principle of policymaking generally is that policymakers need to consider the usefulness, potential costs, and knock-on effects of proposed actions. At times, inaction may produce fewer poor consequences than action, so policymakers need to reflect upon hazards of being overly active when considering potential intervention and promote other options such as effective self-regulation and industry-established standards. It is important for policymakers to seek benefit from both the private and public sectors and to ensure that policies do not create significant inefficiencies, unduly distort competition, or crowd out private investment that can also produce public value. We recognise that stakeholders in media and communication, including private enterprises, public enterprises, administrative agencies, and other political actors, all have individual interests that can be self-serving and attempt to influence policy intervention for their individual benefit. Policymakers need to safeguard policy measures from undue manipulation by any stakeholder, and the policy principles we suggest here are a means for pursuing that objective. In particular contexts and at specific points of time, policymakers may have to prioritise actions and engage in trade-offs among policy principles and policies to address pressing challenges. These should be carefully considered to ensure optimal social benefit, and they should be based on rationales and decisions that are always transparent.

This report deals with both media and communications activities, reflecting the broadened contemporary environment in which policies for both are requiring joint consideration and increased coordination. The boundaries between media and communications are subject to definitional discussion, and are especially germane in countries that pursue policy through different administrative agencies or intervene differently in the two arenas. Media tend to be defined as creators of content and enterprises focused on its direct and organised distribution, such as broadcast/cable/satellite channels. Communications has historically involved infrastructures and systems in telecommunications, such as telephone and technological operations for broadcasting and satellite activities. These delineations create policy challenges today because the operations of firms such as Google, Apple, YouTube, Netflix, Facebook, and others involve both media and communications.

Indeed, our contemporary digital environment, which includes internet and related activities, raises the question of what, exactly, is a media company. This question has direct implications for assumptions about the social responsibilities of powerful platforms such as Google and Facebook. The definitional quandaries that arise with these distinctions exceed the scope of this report, but we acknowledge that platform responsibilities might differ from those of traditional publishers, yet they nonetheless may be implicated in the increasing concerns about so-called fake news and other social problems. It should be noted that these firms are increasingly monitoring, regulating, and deleting content, and restricting and blocking some users, functions that are very akin to editorial choices. We do not take a position on

the definitional issue in this report because our focus is on principles, not the appropriate locale of policymaking or the specificities of policy intervention. It is our intent to provide principles that are germane to media and communications generally and the activities that increasingly cut across both areas.

1.1 What Are Policy Principles and Why Are They Important?

Policy principles are coherent statements based on underlying norms and values that help policymakers and organisations respond to issues and take part in legislative and regulatory activities. More fundamental than specific policy tools and objectives, principles are meant to inform policy development and to provide consistency in approaches to varying issues and actions. These principles are grounded in philosophical values and beliefs that can then be transferred into policy and practice by providing the fundamental criteria used in decision-making processes. The principles thus inform political processes in which policy objectives and potential policy tools are considered.

In practice, principles are articulated and then used to set policy objectives and determine the means to achieve them. The latter two stages are subjected to political processes that determine the final policy outcome. Principles are not neutral, because they are normative, reflecting specific values that are subject to contestation. In choosing among policy principles, policymakers should optimally be concerned about effects of policy on all stakeholders, giving primacy to fundamental communication needs of society and seeking to balance social and economic benefit. This and other forms of policy analysis ultimately require some ranking of the principles (Anderson 1979). We do not make such a ranking in this report, because that must be done within the unique context of policymaking within a specific country.

The principles that we advocate are based on fundamental values such as accountability, dignity, dialogue, equity, freedom, inclusiveness, openness, security, self-determination, reward, and responsibility. Individuals, private organisations, and business enterprises, of course, place different emphasis on common shared values. When legislators and regulatory agencies consider principles, they need to focus upon deep-seated shared norms and embrace principles designed to reduce harm and strengthen beneficial activities for society as a whole.

Policy objectives and mechanisms themselves are too specific to national settings to be generalised across nations. They are influenced by numerous domestic philosophical, economic, industrial, political, and social factors that make it difficult to directly transfer them among countries with similar effect. Principles, however, can be transferred among nations that share underlying values. Democratic nations share a variety of fundamental philosophical beliefs that can serve as the basis for developing domestic media and communications policy. The principles in this report are thus based on common democratic values, including the value of the individual and the community, equal participation in governance, and accountability of those

exercising power on behalf of all. They represent both positive and negative liberties present in democratic states, but also incorporate fundamental values embraced by all states, such as maintaining legitimacy, preserving order, promoting general welfare, and benefiting from investment and economic growth.

The principles thus address a basic question of policymaking: what is the public value being served? They set the bases for choices by specifying what is valued and why it is valuable to the public (Moore 1995).

Policymaking is rarely guided by a single principle, but often informed by several principles simultaneously. This requires policymakers to weigh them and make trade-offs during the policy processes and construction of the substance of a specific policy. Principles underlying the processes, considerations, and decisions should be clarified at the beginning of the policy process to help guide policymaking.

Because the values and objectives in open society emphasise different social and economic aspects, it is sometimes necessary to emphasise, balance, or de-emphasise some principles. The factors involved in these choices should be clear, transparent, and justified. In the authors' normative view, however, policymakers should not sacrifice or de-emphasise principles with public/social/democratic orientations to unduly favour those that primarily emphasise private interests.

1.2 Policy Rubrics and Principles

In developing this report, the authors drew upon their knowledge of policy foundations, reviewed literature, and consulted media and communications policy specialists before drawing up a list of potential principles that we believe are crucial. These were reviewed to ensure their focus was founded on principle rather than policy or policy mechanisms. Decisions for inclusion were guided by the view that good principles actively seek to produce beneficial outcomes rather than merely creating conditions in which they might materialise (Gibbons 2015). Once the final list was agreed upon, the authors then produced descriptions exploring definitions and rationales for each principle.

Our principles are grouped under seven rubrics:
1) Meeting fundamental communication and content needs;
2) Providing effective ability for public use of media and communications;
3) Promoting diversity/plurality in ownership of media and content available;
4) Affording protection for users and society;
5) Providing transparency and accountability;
6) Pursuing developmental and economic benefits; and
7) Pursuing equitable and effective policy outcomes. Twenty-three separate principles are included in these classifications.

We view this report and the policy principles it asserts as a normative invitation to discuss and debate, because such conversation is essential for any society. But we

also believe the principles address fundamental challenges and issues of communication that require policymaking, recognising that the actual policies selected may vary and produce differing outcomes relative to the principles.

Our hope is that this report may serve as a vehicle to start a broader conversation about core policy principles. Policymakers, scholars, and concerned citizens may refer to it as they consider the underlying normative values that underpin a nation's media system and help define its central role within a democratic society. Readers may refer to specific sections about particular policy areas, or glean cross-cutting themes by considering the report as a whole. Some principles are interconnected or complementary with regard to specific policy matters, so it is often necessary to consider more than one when addressing policy. Regardless, the report is meant to bring into clearer focus those principles that usually remain invisible and merely tacit. Rendering them more visible allows for these principles to be discussed more openly in a public manner.

The policy rubrics and principles that we propose are listed here. These rubrics and principles are introduced and discussed individually in the remainder of this report.

1.2.1 MEETING FUNDAMENTAL COMMUNICATION AND CONTENT NEEDS
- Promoting freedom of expression and other rights of communication.
- Providing emergency and crisis communications infrastructures.
- Addressing market failures in systems and infrastructures.
- Promoting production of public goods, public interest content, information, and entertainment.
- Facilitating citizen participation in debate of issues and developments affecting society.

1.2.2 PROVIDING EFFECTIVE ABILITY FOR PUBLIC USE OF MEDIA AND COMMUNICATIONS
- Providing universal access to infrastructures.
- Ensuring availability of affordable basic-use technology and levels of services.
- Supporting equity/social inclusion with services for people who have visual and hearing impairments or others with specific access needs.
- Providing interconnectivity and interoperability of all technologies and services through open architectures.

1.2.3 PROMOTING DIVERSITY/PLURALITY IN OWNERSHIP OF MEDIA AND CONTENT AVAILABILITY
- Seeking diversity of providers and types of content.
- Preventing growth and abuse of monopolistic power in media and communications.

1.2.4 AFFORDING PROTECTION FOR USERS AND SOCIETY
- Protecting children and vulnerable people from adult and disturbing content.

- Protecting personal privacy and data security of users from invasive corporate and state surveillance or misuse.
- Providing adequate consumer protections and enforcement mechanisms in media and communications.
- Protecting against incitement to disorder, commission of crimes, and racial hatred/violence.

1.2.5 PROVIDING TRANSPARENCY AND ACCOUNTABILITY
- Providing transparency and comparability in terms, pricing of services, and data collection.
- Providing transparency in media ownership.
- Providing information to ensure that consumers understand algorithms and other automated technological influences on content choice.
- Promoting media and communications accountability through legal and self-regulatory mechanisms.

1.2.6 PURSUING DEVELOPMENTAL AND ECONOMIC BENEFITS
- Incentivising private investment in infrastructures, services, and innovation.
- Fostering economic competition among providers of media/communications products and services.

1.2.7 PURSUING EQUITABLE AND EFFECTIVE POLICY OUTCOMES
- Fostering meaningful public consultation and participation in the policy process.
- Employing multiple policy mechanisms and tools to achieve objectives.

2. Principles for Contemporary Policy

2.1 Meeting Fundamental Communication and Content Needs

2.1.1 PROMOTING FREEDOM OF EXPRESSION AND OTHER RIGHTS OF COMMUNICATION
This principle is based on the benefits that societies and individuals obtain from free expression and the flow of ideas, opinion, and debate on matters of public and personal importance (Garton Ash 2016). Free expression and the right to receive and impart information and ideas are recognised as a human right under Article 19 of the Universal Declaration of Human Rights.[1]

Media and communications policy choices involving both public and private actions should primarily promote expression and communications rather than support mechanisms that inhibit it. Regulation of public expression, expression in print and broadcasting, telecommunications, and the internet should enhance rather than unduly restrict abilities of citizens to receive and impart information and ideas and take part in debate. When considering principles that may require trade-offs with freedom of expression and rights of the public to communicate, policymakers should take great care to ensure they are minimally restrictive and justifiable by a more compelling social concern.

This principle recognises that providing the effective ability of individuals to receive information, ideas, and opinion, and to disseminate their own views, is as important as prohibitions against interfering with such expression (Fisher and Harms 1983). The rights to expression and communication are fundamental to democratic participation (Raboy and Shtern 2010).

Concepts related to freedom of expression and communication rights include freedom of speech, freedom of the press, right to reply, equitable access to means of communication, the right to know/freedom of information, and access to opposing views. Promotion of freedom of expression thus involves both negative and positive liberties by restricting governmental and corporate actions that inhibit expression, while simultaneously providing the effective ability for individuals to express themselves and obtain information and ideas.

There is concern that policy regarding free expression and communication should address the expansion of intellectual property rights and privacy rights that are being used to restrict or inhibit expression (Vaidhyanathan 2001; Richards 2015), risks to expression and communication created by digital surveillance (Angwin 2014), diminishing media forums in which ideas can be discussed and debated before large general audiences (Page 1996; Schmuhl and Picard 2005), and restrictions on expression created by global distribution of communication (Bollinger 2010; Subramanian and Katz 2011). The principle of supporting freedom of expression and rights to communicate can be applied to these issues and is essential to the future of free expression (Picard 2014a).

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[1] Universal Declaration of Human Rights, UN General Assembly Resolution 217A(III), 10 December 1948.

Freedom of expression is a fundamental right, but it is not limitless. Policymakers often face the challenging task of preserving this freedom while protecting national security, preserving public order, and shielding individual privacy and dignity. When addressing such issues, policymakers in democratic states need to exercise great care to ensure that any constraint on the right to free expression is specific, justified, reasonable, and would satisfy an independent judicial body.

2.1.2 PROVIDING EMERGENCY AND CRISIS COMMUNICATIONS INFRASTRUCTURES

Communication is a fundamental social need during emergencies, whether the emergency is personal, such as summoning assistance for an individual suffering a heart attack, or preparing an entire community for the imminent arrival of a tornado. Emergency communications is a key component of the information infrastructure that governments must provide for their citizens. During natural disasters such as fires, floods, and hurricanes, and during human-made disasters such as terrorist attacks, the presence of such communications systems is a life-or-death matter. What defines the area of emergency communications is not always well delineated. Developing and maintaining disaster communications systems for effective emergency response may go beyond interoperability issues to include technological, sociological, and organisational challenges (Manoj and Baker 2007). These systems can vary, depending upon media platform and the type of emergency involved. However, a number of key components cut across a range of cases. The primary objectives are to enable the public to communicate with authorities in the case of emergencies, to enable authorities to communicate directly to the public, and to enhance communication among authorities themselves.[2]

Policies pertaining to emergency communications may include several basic components, including having a designated number for emergency response, which includes call processing and delivery through public safety answering points and call dispatch; an emergency alert system; and radio and/or broadcast or cable television station news and updates.[3] In North America and Europe, common telephony standards for fixed lines include a reserved telephone number for emergency response. This number is strictly designated as an emergency service and usually extends across traditional wireline, VoIP, and wireless phone services,[4] although there are some limitations and exceptions.[5] Enhanced services include mobile telephony and GPS in an effort to automatically add location information to wireless emergency calls to aid dispatchers in finding the correct location.[6] All

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[2] A secondary objective of communications during crises is to permit members of the public to communicate among themselves, but its importance is often reduced during emergencies to ensure emergency responders can operate effectively if damaged infrastructures and systems have diminished overall communication capacity.

[3] These components are listed on the FCC page https://www.fcc.gov/consumers/ guides/emergency-communications

[4] http://www.crtc.gc.ca/eng/phone/911/can.htm

[5] https://www.fcc.gov/consumers/guides/voip-and-911-service

[6] https://www.fcc.gov/general/enhanced-9-1-1-wireless-services, http://transition.fcc.gov/cgb/consumerfacts/wireless911srvc.pdf

nations must commit to funding and managing these emergency services, including the maintenance of emergency call centres.

While these basic services are all important components, more robust and expansive criteria are needed to respond to a wider range of emergencies. In particular, early warning systems must be in place, which can greatly reduce death tolls. Disasters related to the 2004 Indian Ocean Tsunami suggest that a lack of an effective early warning system may have contributed to the significant death toll (Penberthy 2014). Japan has recently installed an improved system that may have saved hundreds of lives had it been in place for its 2011 Tsunami (Demetriou 2013).

Other important components of emergency communications include facilitating effective coordination, preventing an over-reliance on a single form of technology that may be disrupted during a crisis, and finding effective ways to utilise mesh networks and social media during disasters. The general ability of authorities to communicate directly to the public using broadcast and cable systems, mobile text and messaging alerts, and siren warning systems is also crucial when devising a holistic emergency communications strategy. Paying attention to legacy and digital media communications opportunities and focusing on building out resilient infrastructures are paramount in terms of allocating resources from an often-limited public safety budget.

2.1.3 ADDRESSING MARKET FAILURES IN SYSTEMS AND INFRASTRUCTURES

This principle supports activities designed to address market failures in communications and media.[7] Commercial firms' economic imperatives can make them especially prone to avoiding investments and operations in systems, infrastructures, and content provision that do not provide adequate returns, thus creating market failures (see, for example, Bator 1958; Stiglitz 1989; Medema 2007). Many democratic societies have long used a market failure rationale to maintain healthy public media systems, especially public broadcasting services (Brown 1996). However, the widespread neo-liberalisation of recent decades that encourages privatisation, deregulation, and increased commercialisation of core social institutions has weakened such policy arrangements and amplified market failure in some countries. Systematic underproduction of vital communications such as news media, limitations on telecommunications in rural areas, and lack of accessible broadband internet services in poor and rural areas are also caused by market failure.

For example, universal service is socially desirable but economically inefficient when considering how expensive it is for private firms to build out communication infrastructures to rural and sparsely populated areas, a predicament that may lead to urban centrism.

In the case of communications and information infrastructures, various kinds of systemic market failures specifically affect media industries, especially since they

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[7] Parts of the following two sections draw from Pickard 2015, 212–231.

tend toward concentration and produce both negative and positive externalities (Cooper 2011; Freedman 2008; Picard and Wildman 2015). Profit-maximising behaviour can be particularly problematic in non-competitive media markets if it results in too little production and consumption because the price is set above marginal cost. Challenges created by the effects of the two-sided market model employed in commercial media – providing content free or at low cost to attract audiences that are sold to advertisers – have also historically played a role in market failure because the model privileges advertiser needs over those of audiences. This occurs because advertising revenue tends to outweigh consumer payments, and the practice promotes concentration by creating incentives for consolidation (Picard 1987; Koschat and Putis 2000).

Uncompetitive markets may lead to the abuse of market power that undermines social welfare maximisation. This may include a failure to provide adequate interconnection between communications networks and a failure to provide communications services to all of society. The latter is exemplified by 'red-lining' (privileging profitable markets and communities over others), which often occurs in telecommunications, broadband, and cable television networks. Media are also prone to market failures involving problems with economies of scale and scope, such as high first-copy costs that advantage large incumbents (Baker 2002; Picard 2011).

In general, different market structures may experience different failures to varying degrees, and various incentives and subsidies can be built into a policy system to help control for these problems. Ultimately, market failure is often best addressed by employing both the public and private sectors to address deficiencies to produce optimal benefits.

2.1.4 PROMOTING PRODUCTION OF PUBLIC GOODS, PUBLIC INTEREST CONTENT, INFORMATION, AND ENTERTAINMENT

This principle is based on responding to media markets' inability to finance and regularly provide high-quality content designed to serve social needs. This includes news and information, public affairs programming, and entertainment that is universally available.

Production of news and information, for example, is typically not a viable commercial product on its own. Although in some countries consumers' direct payments such as subscriptions account for much of a news organisation's revenue, most newspapers and other types of news media have traditionally been subsidised by the state, patrons, or advertising (John and Loeb 2015). Therefore, scholars are increasingly arguing that the information produced by news media should be treated as a public goods (Hamilton 2006; Pickard, Stearns and Aaron 2009; McChesney and Nichols 2010; Pickard 2015: 220–224; Baker 2002), which, especially in their digital form, are non-rivalrous (one person's consumption does not detract from another's) and non-excludable. It is difficult to exclude free riders, who can often obtain news and information without paying for it, and because other news

outlets can replicate news stories. Therefore, it is difficult to allocate public goods through standard market mechanisms (Samuelson 1954; Trogon 2005). News media are not only public goods in an economic sense, but also serve 'the public good' in a socially beneficial sense. News media's value surpasses their revenue stream by producing *positive externalities* (benefits that accrue to parties beyond direct economic transactions) (Hamilton 2016). These produce a more knowledgeable and informed populace, which democratic society requires. Therefore, non-paying individuals also benefit from public interest media.

High-quality entertainment media also serve the public interest by reflecting national values and identity through drama, comedy, music, discussions, and other genres of social importance. This content's cultural benefits often outweigh its pecuniary value, making provision difficult because commercial media-makers prefer producing content that is commercially successful. Many countries try to offset these difficulties through policies such as public service broadcasting, content requirements, and production assistance (Donders 2011; Picard et al. 2015).

Concerns about supporting public goods may arise with the disinvestment in news production resulting from the collapse of the advertising revenue model. This is particularly severe in the US, where traditional news workers have declined by over a third and revenues have plummeted. Similar downturns have impacted European news institutions, especially in southern, Eastern, and central Europe. The loss of local newsgathering and the rise of news gaps in covering entire sociopolitical areas are particularly problematic given that localism is a fundamental normative foundation for media policy (Napoli 2001; Friedland and Lloyd 2016). In countries with stronger anti-statist sentiments, or in cases where the processes of providing support are subject to undue influence by the state, subsidising news media is less politically feasible. Nonetheless, policymakers might consider creative means to compensate for democratic deficits caused by commercial news media's decline (Pickard 2013, 2014). For example, western and northern European countries have implemented various forms of press subsidies (Murschetz 2014).

Goods that produce positive externalities are sometimes called 'merit goods', which society requires (such as healthcare services), but which individuals typically undervalue (are unable or unwilling to pay for), and thus the market underproduces (Musgrave 1959).[8] By placing social value on *needs* instead of *wants*, these goods are not determined by popular choice but are provided regardless of consumption habits.

Public interest media serve as public and merit goods by providing a vital infrastructure that acts as an independent watchdog and a forum for diverse voices and viewpoints. Public service broadcasting and its associated activities online, as well as traditional print news media and other forms of broadcast media (Graham and Davies 1997), can provide such benefits if government influence is limited. These media often provide public affairs and entertainment content designed to

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[8] See especially Ali 2016: 105–128. See also Pickard 2015: 8–10; Cunningham et al. 2015. See generally Ver Eecke 2007.

serve cultural needs, needs of children and minorities, and rural areas that are not commercially viable. These objectives may be pursued through universally accessible public service broadcasting (Barwise and Picard 2014), but can also be pursued through requirements and incentives placed on commercial media (see, for example, Curran 2011; Picard 2007).

Although there are still a wide variety of profitable commercial news organisations across the globe, many forms of public interest media have rarely been supported by direct market transactions (John and Loeb 2015). For example, public service broadcasting is typically funded by licence fees or taxes. For many forms of commercial news media, especially in the US, subsidies have often drawn from advertising revenues.[9] This latter model is increasingly unsustainable as audiences and advertisers move to the internet, where ads sell for fractions of traditional print advertising. Digital ad revenues have not replaced these enormous losses, especially as Google and Facebook capture the lion's share of internet advertising revenue (Gjorgievska 2016). Supporting public interests such as universal access to high-quality news and entertainment may require non-market mechanisms. These may include continuing various content production support mechanisms for public service media (including digital enterprises), such as news production subsidies, audiovisual production funds, and tax credits and reductions.

2.1.5 FACILITATING CITIZEN PARTICIPATION IN DEBATE OF ISSUES AND DEVELOPMENTS AFFECTING SOCIETY

This principle is based on the premise that all members of a democratic society should be able to freely participate in discussions about important issues. This assumption is a cornerstone of public sphere theory, and basic democratic theories have long accepted that democracy requires meaningful public participation (Habermas 1989; Fraser 1992). It is also usually taken for granted that such deliberative democracy is in part facilitated through a society's media system, notwithstanding well-documented distortions that often occur in the news media (see, for example, Page 1996).

Beyond voters' involvement during elections, a healthy participatory democracy requires opportunities for citizens to deliberate in public spaces that are largely independent from state and market forces. In these spaces, which include online discussion groups, individuals can form opinions and organise themselves to confront pressing social issues (Feree et al. 2002; Bennett et al. 2004). A robust democratic discourse and 'marketplace of ideas' requires the possibility of input from a diverse range of voices and viewpoints, even if some individuals choose not to participate.

For a media system to adequately facilitate these processes, communications channels must be accessible in all meanings of that term so that everyone has equal

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[9] Advertisers are not paying for news media directly; they instead are paying for access to audiences. News is produced as a by-product – a positive externality – from the primary exchange.

opportunity to access the same information and communication. The media and information system must be designed in ways that provide equal voice so that people are able to freely communicate in an inclusive and egalitarian manner. This also requires that participants in democratic debate feel they can safely discuss social and political issues while not being secretly surveilled, which can have a chilling effect on deliberation.

In the US, the First Amendment protects basic freedoms of assembly, speech, and the press to help facilitate such public debate,[10] and the Universal Declaration of Human Rights codifies the right for people to 'receive and impart information and ideas through any media'.[11] Most nations have such rights enumerated in their laws, but democratic nations should ensure they are incorporated through positive measures in various media and communications policies to provide the effective ability for open discourse to take place.

2.2. *Providing Effective Ability for Public Use of Media and Communications*

2.2.1 PROVIDING UNIVERSAL ACCESS TO INFRASTRUCTURES

This principle is based on a long-standing tradition of positive freedoms in which societies try to create opportunities for their citizens to equally access quality information and entertainment media. Maintaining accessible communications infrastructures is essential for fostering an informed, self-governing populace. Such infrastructures also serve as a conduit for cultural and educational content.

Universal access to communications structures contributes to economic growth and other social benefits (Whitacre et al. 2014; Dailey et al. 2010; Rhinesmith 2016). However, digital divides persist, especially in rural and poorer urban areas. Many factors contribute to information inequities, ranging from prohibitive costs to lack of media literacy. But having material access to these infrastructures is a baseline requirement for a strong democratic society.

A number of policy tools can provide incentives to dissuade communications service providers from 'digital red-lining' and other socially undesirable activities. For example, the historical development of the US postal and telephony systems shows how such considerations were central to communications infrastructures that enabled the nation's population to connect with each other and receive news and information (John 1995). Universal service principles seek to make communications services available to as many members of society as is technologically possible. However, this objective also requires that sufficient funds are made available to achieve such a goal (Noam 1997). Countries have historically overcome costs issues for post and telecommunications by organising them as governmental or public entities with tax support and monopoly status (Schouberechts 2016; Noam 1992; Millward 2005), though in some cases monopolies were granted to private firms to make service economically feasible.

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[10] First Amendment, retrieved from Legal Information Institute https://www.law.cornell.edu/constitution/first_amendment
[11] http://www.un.org/en/universal-declaration-human-rights/

Historically, countries like the US sought universal service by allocating some of a monopolistic system's profits toward subsidising end users, especially in rural areas. More recently these subsidies have derived from a variety of sources and programmes, including the universal service fund and the Federal Communication Commission's Lifeline programme, which now includes broadband services (FCC 2016). The European Union's Digital Agenda sets out objectives for similar broadband services throughout Europe by promoting public policies to stimulate national developments through private sector firms (Lemstra and Melody 2015). The World Bank and other international organisations are similarly promoting efforts worldwide to improve communications infrastructures and broadband availability (Kelly and Rossotto 2012).

Policymakers are also concerned about previously non-existent mobile infrastructures that are increasingly becoming a more flexible alternative to fixed systems. Internet service providers, cable and satellite system firms, and operators of other distribution systems are also attracting policy interest to ensure universal access. Access to distribution infrastructures and systems owned by competing firms is also critical for competitors providing content. This includes non-discriminatory and equitable access to cable and satellite systems and electronic programme guides, and fair inclusion and prominence in search results.

Policies to incentivise communications providers to build out to underserved areas may take many forms, from supply-side interventions such as incentivising providers, to demand-side interventions such as subsidising low-income members of society through reduced billing and providing low-cost computers. Ensuring actual access to infrastructures will require regular monitoring and data-driven assessments performed by governmental and independent bodies on the quality of the information provided via these channels.

2.2.2 ENSURING AVAILABILITY OF AFFORDABLE BASIC-USE TECHNOLOGY AND LEVELS OF SERVICES

This principle is based on the belief that not only must communications infrastructure be accessible at a material level; it also must be affordable at basic levels so that consumers and citizens can meaningfully benefit from new technologies. This requires both affordable hardware (low-cost computers, smartphones, and other necessary technological equipment and devices) as well as affordable services (monthly fixed or wireless broadband delivered to the home and/or mobile devices) offered at the basic levels that are required to adequately access information, news, and entertainment.

Various global comparative studies suggest disparate rankings of affordability and broadband penetration and adoption around the world (Russo and Morgus 2014; OECD 2016; ITU/UNESCO 2016). While debate over how best to address these gaps continues, studies show that prohibitive costs are one of the main barriers for broadband adoption (Pew Research Center 2015). These costs can be reduced by offering services at lower cost and by subsidising hardware, such as

offering low-cost computers. The prices for mobile devices like smartphones, which are often cited by non-users as being overly expensive, could also be reduced through subsidies (ibid.) or other forms of welfare benefits or payments. When low-cost devices and services are made publicly available, policymakers can ensure minimum levels of quality and functionality to prevent significant disparities of information quality from emerging among users in different demographic groups.

Other cost-reduction measures may relate more directly to the supply side of the equation since high prices, especially in the US relative to the rest of the industrialised world, arguably result from a lack of competition in broadband markets (Holmes and Zubak-Skees 2015). This situation might call for interventions such as anti-monopoly measures, pro-competition policies, and facilitating new entrants into internet service markets such as municipal broadband networks (Pickard 2015).[12]

Regardless, the objective of providing access to communications technologies is rendered somewhat meaningless if technologies remain beyond the reach of many consumers due to prohibitive costs. Democratic society requires basic levels of affordable services and technological hardware for it to communicate effectively. Low-cost telecommunications services have been shown to provide significant benefits in developing countries (Navas-Sabater et al. 2002; Keogh and Wood 2005; Aker and Mbiti 2010) and new types of pricing services may improve affordability (Hodge 2005; Anderson and Billou 2007).

2.2.3 SUPPORTING EQUITY/SOCIAL INCLUSION WITH SERVICES FOR PEOPLE WHO HAVE VISUAL AND HEARING IMPAIRMENTS OR OTHERS WITH SPECIFIC ACCESS NEEDS

This principle assumes that all members of society, regardless of physical ability, should have equal access to communications.[13] Societies have long sought to accommodate those with specific access needs, such as those who have visual or hearing impairments. New digital technologies, guided by the right policies, can do much to aid such people by closing the 'disability divide' (Raja 2016).

For example, policies that mandate closed captioning for television programming are common (see, for example, FCC 2017).[14] For telecommunications, government mandates might include various forms of relay services, phone devices, and other inclusive technologies (Simpson 2009). A number of technologies and approaches aim to make disabled people feel socially included, such as screen readers, speech-to-text programs, and other assistive devices and technologies for

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[12] A separate measure might entail also providing training for how to use new technologies.

[13] It is recognised that literacy also creates limitations on the use of media and digital communications systems that are addressed through educational policies. This section, however, focuses on individuals who have specific access needs due to physical limitations.

[14] The European Union Directive 2010/13/EU on Audiovisual Media Services covers the provision of sign language, subtitling, audio-description and other measures so individuals who have hearing and visual impairments may utilise audiovisual services.

older adults who have visual impairments (Okonji et al. 2015).[15]

But digital technologies often also contain barriers to inclusion, which can be addressed via policy. Issues related to the precise nature of these barriers and how people are negotiating them – what some have termed the 'digital disability divide' – are beginning to gain more scholarly attention (Dobranskya and Hargittaib 2016). Some of these barriers, such as prohibitive costs, are common to digital technologies in general, but are especially acute for disabled people because they require expensive equipment for basic communications. For example, augmentative and alternative communications devices that aid people who face challenges with verbal communication are often in the range of US$6,000 (Raja 2016).

Digital equity and social inclusion are bedrock principles for democratic society. It is the role of accessibility policies to ensure that all members of society, especially those with specific access needs, can benefit from communications systems.

2.2.4 PROVIDING INTERCONNECTIVITY AND INTEROPERABILITY OF ALL TECHNOLOGIES AND SERVICES THROUGH OPEN ARCHITECTURES

This principle is based on the view that an open and accessible communications system requires the physical interconnection of networks and free-flowing exchange of content through those infrastructures. Interoperability aims to harmonise devices and applications so that different systems and networks (and their users) can work together effectively. Without rules mandating such interoperability and interconnection between generally available networks such as fixed and mobile telephony, broadband, and cable systems, communications firms may have perverse incentives to close off their networks with their rivals, and thereby harm consumers and end users, which is socially undesirable for democratic society. Some have argued that designing open technologies to prevent closed systems helps lower costs for consumers while increasing the collaborative potential for innovation (Cooper 2003). Interconnection and interoperability take on even greater importance with the emergence of the 'Internet of Things', which has expanded and complicated design principles for network architectures (Borgia 2014). At the same time, it should be noted that certain exceptions may arise where users may prefer or even require closed systems to escape state and corporate surveillance.

While there are various regulatory approaches that may help actualise such objectives (Jamison 1998), it is often assumed that, in terms of structural design, open architectures are best suited to facilitate interconnectivity and interoperability (Meinrath and Pickard 2008). This may entail keeping technologies open at both the hardware level and at various levels of the internet, and, in some cases, regulating proprietary networking. One useful heuristic for understanding different vulnerabilities and threats to interconnection is the seven-layer OSI (Open Systems

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[15] The European Commission has funded technology projects designed to improve access of individuals who have various impairments to digital content. See EU-Funded Projects on Digital Inclusion, https://ec.europa.eu/digital-single-market/en/news/eu-funded-projects-digital-inclusion.

Interconnection) model that was developed by the International Organization for Standardization. This model breaks communication networks into different media and host layers, from the physical layer to the application layer, with each one representing different core functions of the network (Meinrath et al. 2011).

In their ideal form, interconnection, interoperability, and open architectures all help to ensure that communications systems are designed and standardised in ways that different technologies, devices, applications, data, and networks can all communicate and work together effectively. They aim to harmonise different products and standards by removing technological and physical barriers. Such a freely connecting and flowing communications system affords many benefits for consumers and for democratic society.

2.3. *Promoting Diversity/Plurality in Ownership of Media and Content Availability*

2.3.1 SEEKING DIVERSITY OF PROVIDERS AND TYPES OF CONTENT

The importance of diversity in content providers and types of content is founded on the belief that pluralistic society needs a wide range of sources and content in its media and communications that fully represents citizens' diverse views and voices. This principle of pluralism is deeply embedded in democratic values of citizenship and participation in society as well as consumer choice in markets (Karppinen 2013). Those views embrace the normative foundation that society functions better when political, economic, and social forces do not constrain information, ideas, and discussion, or limit entertainment and cultural content. Seeking diversity in supply and content is a means of pursuing those objectives. Three important concepts intertwine in pursuit of this policy principle: diversity, variety, and pluralism.

Diversity represents difference in characteristics and form, variety represents a mix of types of media and communications, and pluralism involves the range of ideas and views available. In policy discussions, diversity generally refers to diversity of ownership and of the ideas conveyed through media channels, evidenced by the number of owners of media or communications systems or the range of political views represented by that ownership. Variety is generally represented as the range of genres of content. Pluralism is a more complex concept meaning representation of the views and interests held across society.

Policies should promote diversity of media supply, distribution, and use to ensure access to a variety of information sources, thereby encouraging individuals to form their own opinions and have their views and voices represented in media. More diverse media systems are evidenced by multiple independent and autonomous media, a wide range of media types and content, representation of various political and ideological groupings, representation of various cultural and ethnic groupings, and representation of regions and municipalities beyond a country's capital and largest cities (Valke et al. 2015). Overall media diversity, particularly commercial audiovisual content, has grown in recent years through

cable and satellite channels and internet-based content providers such as Netflix and Hulu. Although creating diversity in media suppliers, distribution platforms, and systems increases the likelihood of diverse content, it does not guarantee it. Therefore, policies cannot rely solely on increased supply to promote diversity.

In many countries, issues of diversity, variety, and pluralism are primarily addressed through ownership and competition policies. This ownership-based approach has traditionally been the primary focus of the European Commission, but it has left it up to member states to implement policies to address the issue (European Commission 2007, 2008), and some have responded with ownership controls, direct and indirect subsidies for weaker firms, and other measures to promote wider ownership (Doyle 2002). In recent decades, the Council of Europe and the European Parliament have defined media pluralism beyond ownership and political influence to include social and cultural influences on media content. These incorporate geographical media pluralism within nations (i.e. media should be spread throughout a country to represent varying provincial interests) and cultural pluralism (i.e. the presence of media or content serving and representing subgroups in society so that their views can be heard and they can integrate with society as a whole). Cultural pluralism is typically seen as involving various minorities, gender, age, and income groups (Council of Europe 2007; Valke et al. 2015).

Despite what often appears to be a high-choice media environment, pluralism in providers and less commercially viable, cultural, political, and public interest content remains underserved in most countries.

Policies designed to address issues of diversity, variety, and pluralism typically employ either structural- or content-based approaches. These may involve competition law enforcement, public service broadcasting, licence allocations favouring new entrants, content genre, and domestic content requirements for broadcasters, allocation of new spectrums to serve local and regional communities, and assisting development of media and content designed to service minority communities. Policy should support development and sustainability of a range of commercial and non-commercial media types and structures.

2.3.2 PREVENTING GROWTH AND ABUSE OF MONOPOLISTIC POWER IN MEDIA AND COMMUNICATIONS

This policy principle is based on the fundamental economic rule that markets can only operate efficiently and effectively if they are competitive and that monopoly power should be controlled. Monopolistic power is evidenced in markets by dominant participants controlling output and price, thus harming consumers through higher prices, reduced choice, and poorer service, and concurrently harming other competitors by reducing their ability to enter or compete in controlled markets.

States typically address monopolistic power with laws restricting mergers and acquisitions and behaviours that damage competition. Competition policy is

used to keep monopolistic power from increasing due to concentration, and regulators are typically reticent to undo already existing concentration.

From the standpoint of media and communications policy, monopolistic power is a concern because it can reduce choice and restrict the number of content providers, which can harm society by limiting information flow, reducing diversity and plurality, and placing cultural and political influence in the hands of a few firms (Picard 1998; Baker 2006). Therefore, concerns about monopolistic power arise around spectrum allocation and licensing, infrastructure policy, and vertical and horizontal integration.

Authorities employ standard measures of concentration to determine monopolistic power, but those measures are limited in media communications that tend to be highly concentrated due to underlying economic factors, such as high first-copy costs in producing content, but near zero marginal costs for additional production. These factors combine with high fixed costs and significant economies of scale and scope, creating incentives for companies to serve large markets. In digital media, network externalities of increasing benefits produced by larger numbers of users promote large firms. Moreover, financial factors also encourage media concentration because the investments necessary to operate communications systems tend to require vast resources (Harcourt and Picard 2009). Consolidation is also promoted because of incentives resulting from two-sided markets (audiences and advertising), with firms delivering larger audiences, or smaller audiences more cost-effectively, which attracts greater advertising revenue.

Despite increasing high-choice markets in terms of content, a small number of large media conglomerates and holding companies tend to own available content (McChesney 1999). Factors contributing to this situation are the growth of conglomerates across media and communications markets (Bavasso and Long 2013), products and services, the difficulties posed by intervention in the two-sided nature of media markets (OECD 2004), and because competition law provides limited ability to address public interest concerns (Shelanski 2006). Highly concentrated global digital intermediaries in content agglomeration, search, and social media increasingly play significant roles in content access and provision. Because network economies and capabilities of scale and scope provide such firms and their users with great benefits, it is difficult to use competition law to address this concentration of market power.

A major challenge in addressing digital monopoly power is that competition law relies on defining the relevant market by product, geographic market, and competitors involved, and this challenge is especially significant when large international enterprises are involved. Many digital firms offer multiple products and services in both individual countries and globally.

In addition to competition law, policymakers should employ media ownership and licensing decisions that encourage new entrants. These include providing incentives for purchases of divested firms; facilitating more independent local, regional, and national media providers; placing domestic content requirements

on foreign firms operating in the country; and employing intellectual property and related laws and taxes to encourage diverse content. They should also ensure that monopolistic firms in telecommunications, infrastructures, and content gateways cannot exploit consumers. Incentivising private investments in systems and services and determining reasonable trade-offs needs to be concurrently addressed by policies related to universal access, inclusion and affordable access, consumer protections, and transparency.

2.4. Affording Protection for Users and Society

2.4.1 PROTECTING CHILDREN AND VULNERABLE PEOPLE FROM ADULT AND DISTURBING CONTENT

Ensuring the well-being of children and vulnerable people is a fundamental principle for which policymakers and family members share responsibility. It emerges from the prevailing beliefs that society should provide a safe and nurturing environment for the young and protect and care for those who cannot safeguard themselves or meet their own needs.

Protection is sought for children because their brains and their cognitive abilities are not yet fully developed, affecting their abilities to process information, operationalise concepts, understand consequences, compare, and reason. As an important means by which children learn social values and culture (Davies 2010), media have significant effects on their development, health, and well-being (Pecora et al. 2007; Strasburger et al. 2014). Children's neurological, psychological, and sociological development can be affected negatively by heavy media use and exposure to certain forms of content (Lemish 2015).

Of particular concern are media depictions of disturbing topics and intense situations (Garbarini 2008), portrayals of violence (Gentile 2014), explicit sexual content and pornography (Ravitch and Viteritti 2003; Shewmaker 2015), drug use, profanity, and scatological language. Child development specialists and paediatricians are also concerned about advertising aimed at children and its effects of promoting materialism, obesity, distorted body images, and harmful products such as tobacco and alcohol (Barrie et al. 2005; Blades et al. 2014). Other concerns focus on the effects of online bullying (Schell 2016), pornography (Livingstone et al. 2012), sexual stalking on the internet (Dombrowski et al. 2007), and internet and online game addiction (Young and Nabuco de Abreu 2011).

Mechanisms for protection vary, depending upon media platform, the abilities of families to control consumption, and the willingness of government to regulate (Barrie et al. 2005; Caron and Cohen 2013; van der Hof et al. 2014). These include motion picture and television ratings, regulation of television programmes during time periods when children typically view, parental technical controls, prohibitions of broadcasting certain types of content, and internet blocking of certain types of websites.

Related protection is sought for vulnerable people, including young adults and adults who lack abilities for a fully independent life because of limited mental capacity resulting from developmental disabilities or trauma, psychiatric and psychological conditions, addiction, or dementia. These vulnerable people commonly require assistance to meet their basic personal care needs, manage mental illness, and oversee their finances and property. They are typically afforded special status, legal protection, and public and private assistance, but these vary widely by country.

Media use issues associated with vulnerable people focus on their well-being and how they may be disturbed by violent and sexual media content, unduly manipulated by marketing and advertising messages, or exploited through internet communications. Particular concerns include the effects of news coverage and portrayals of suicide in entertainment media on individuals in emotional stress (Gould et al. 2003), the vulnerability of the elderly to financial fraud (Martin 2009; Holtfreter et al. 2014), and addiction to online games and gambling (Griffiths and Parke 2002; Griffiths et al. 2006; Young and Nabuco de Abreu 2011).

Where vulnerable people are under family care or overseen by caregivers in a structured setting such as group homes, media use may be monitored to reduce exposure to specific content. Vulnerable adults also benefit from some of the protective mechanisms put into place for children. However, these policies must be implemented carefully to ensure that free expression and the ability to communicate and receive information are not unduly restricted.

2.4.2 PROTECTING PERSONAL PRIVACY AND DATA SECURITY OF USERS FROM INVASIVE CORPORATE AND STATE SURVEILLANCE OR MISUSE

This principle is based on protecting individuals' dignity and solitude from undue intrusion or exposure of personal information. It is designed to protect peace of mind, sensibilities, spirit and feelings, safety, reputation, personal autonomy, and the desire to be left alone (Rossler 2004; Wacks 2015). Who and what deserves privacy has been the subject of debate in both philosophy and policy (Richardson 2015), leading to divergent approaches depending upon issues and jurisdictions involved.

Media-related issues have tended to involve intrusion into individuals' lives, disclosure of private facts and information, and appropriation of their likenesses. Policy involving media tends to protect private people more than public figures and officials (Solove and Schwartz 2008). Regardless, privacy issues are significantly debated when they are not directly germane to contemporary news events and issues (Petley 2013; Brock 2016).

The new communications environment's technological structures create new opportunities for surveillance of the public. The increasing ability of government, media, digital firms, and other businesses to gather information about individuals by tracking their internet, social media, and mobile device uses, purchases, expressions, and other behaviours has raised significant new concerns about privacy

(Nissenbaum 2009; Lane et al. 2014). While such data gathering can help provide better services to users, the data gathered in these processes are often not transparent to the public. Moreover, the exchange of data for those services, and users' rights and protections, are often unclear.

Policies should protect individuals against undue intrusion in media coverage and digital data gathering. They should require transparency in information collection and storage, provide and protect abilities to opt in and opt out of private collection, limit the length of time an individual's data may be maintained for commercial and governmental use, and constrain how an individual's data can be shared among commercial entities. Policies should also ensure that users are not subject to experimentation without consent, direct manipulation, or other inappropriate use of data by those collecting, storing, and employing users' personal data.

2.4.3 PROVIDING ADEQUATE CONSUMER PROTECTIONS AND ENFORCEMENT MECHANISMS IN MEDIA AND COMMUNICATIONS

This principle is based on ensuring equity, safety, and security in transactions between consumers and suppliers of goods and services (Xiao 2015; Goldsmith 2016). These consumer protections are designed to help consumers effectively engage in market transactions and are fundamentally concerned with unfair business practices, deception, and fraud. Consumer protections focus on issues involved in marketing practices, goods and services delivery, product dangers, repairs and returns, billing and credit issues, and privacy and identity threats (Gengler 2001; Solove and Schwartz 2014; Harris 2012; Nagunwa 2015).

Consumer protection is a media and communications policy issue because of consumers' increasing reliance on commercial communications intermediaries to receive audiovisual and other content, gain access to the internet, use social media, and employ a range of telecommunications services (Boudreaux and Ekland 1993; Brynjolfsson and Kahin 2002; Peitz and Waldfogel 2012). Increasing use of websites, social media, and mail for commercial transactions with firms offering products and services also necessitates consumer protection policies (Cordera 2001; Koutsias 2008; Cortés 2012; Papacharissi and Fernback 2005). Policymakers should ensure that adequate protections exist so that consumers are not harmed in these transactions by unscrupulous sellers or inferior goods and services, and that appropriate customer service is provided.

The degree of consumer protection, enforcement, and issues covered is dependent upon the policy, law, and regulation applicable to a specific locality. Therefore, the rise in cross-boundary transactions presents national, regional, and global jurisdictional challenges (Mastroani 2000; Reiboldt and Mallers 2013; De Cristofaro and De Franceschi 2016). Even in the same jurisdiction there can be tensions between regulatory agencies in communications, consumer protection, data privacy, and financial regulators regarding how issues should be regulated. Consequently, better coordination among agencies is often required.

Among protections necessary for media and communications services are accurate and transparent price and service information, appropriate compensation for service outages, and performance requirements for customer service and repairs. These can include information designed to ensure clear comparability of television subscription prices, clarify mobile data caps, verify broadband speed provided, and specify switching costs for selecting different providers and services.

2.4.4 PROTECTING AGAINST INCITEMENT TO DISORDER, COMMISSION OF CRIMES, AND RACIAL HATRED/VIOLENCE

This principle is based on pursuing the public interest and meeting the responsibility of authorities to maintain public order and protect citizens from abuse and violence. It is founded on norms to pursue the general good, protect people, property, and rights of all citizens, and promote adherence to the rule of law. There is a rivalry between this principle and the principle of free expression that requires careful reconciliation to ensure it is not misused to avoid debate on matters of public interest and criticism of government.

A state's fundamental requirement is its exercise of police power to maintain public order (Das and Jiao 2004; Channing 2015). Protection against incitement to disorder is designed to pursue that norm by halting instigation or encouragement of members of the public to act in a violent manner against other people or property or to riot proximate to the incitement. It is intended to ensure that expression does not initiate immediate public disturbance involving violence and civil disorder (Marcus 1997; Kaminski 2012).[16] The levels of protection of social order vary by jurisdiction, even within countries.

Incitement to commit crime is a broader protection against those who might urge others to imminently violate the law. It tends to focus on direct expression that encourages and assists criminal acts but does not usually rise to the level of conspiracy. Incitement to crime can provoke both non-violent and violent activities, such as violating lawful orders, blocking public facilities, and seizing property.

Protection against incitement to racial hatred/violence is intended to protect individuals against inflammatory expression, such as hate speech, that produces acts of discrimination, overt hostility, harassment, persecution, and physical violence based on religion, race or ethnicity, sexual orientation, and other characteristics (Waldron 2014; Brown 2015). It is intended to secure the rights of all members of society to live without fear and to protect them from crimes against humanity, such as apartheid, slavery, and genocide (Bassiouni 2011; Robertson 2013). The protection exists in international law and in many countries' national laws (Timmermann 2006; Lööw 2000).

Provision of these three protections requires achieving a balance between the pursuit of public order and support for free expression, criticism of authorities, and

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[16] United Kingdom Ofcom Broadcasting Code rule 3.1 contains provisions forbidding carriage of material that would lead to disorder or commission of crimes.

public assembly (della Porta and Reiter 1998). Because of their social effects, media organisations, aggregators, and social media networks bear responsibility to help maintain order rather than to wantonly inflame passions and incite illegal activity.

2.5. Providing Transparency and Accountability

2.5.1 PROVIDING TRANSPARENCY AND COMPARABILITY IN TERMS, PRICING OF SERVICES, AND DATA COLLECTION

This principle is based on providing consumers with a clear understanding of prices, conditions, and exchanges made in media and communications markets, a necessary condition for consumers to make informed choices and exercise reciprocal power in market exchanges.

The principle promotes reduction in vague and confusing offers on telephone and internet services, content subscriptions, and terms such as internet speeds, data limits, what personal data are collected, and other considerations, so that consumers can effectively engage in comparison shopping. This principle is intended to improve the information available to consumers, reduce the time required by consumers to seek information that helps them make informed choices, and provide information that does not make misleading comparisons.

Providing easily accessible, comparative consumer information is important because making multiple and complicated choices confuses consumers (Mick et al. 2004). Moreover, the ability to find information, and the costs of the search involved in terms of time and effort, also influence consumer information-seeking behaviour (Schmidt and Spreng 1996). Further, collection and use of personal information comes at a cost to the consumer. Such costs should be clearly treated as part of transactions (Petty 2000).

Because of the complexities involved in choices in telephone services, internet services, pay television services, and other contemporary technologies, policymakers should establish standardised comparisons, or make them available through self-regulation and industry-established standards. Comparisons should include average monthly costs, length of contracts, features offered, speeds, download limits, content included and requiring extra payment, and permit technologies and capabilities. This should allow comparisons based on average home or individual consumer use of the services. Standard comparisons should be re-evaluated and revised regularly, however, to ensure they are applicable to new types of services and bundled services that may emerge. Application of this principle is important both in cases where there is limited competition and monopoly power and also in cases where robust competition exists.

2.5.2 PROVIDING TRANSPARENCY IN MEDIA OWNERSHIP

This principle is based on the philosophical concept of openness. It allows members of the public to identify and assess who is speaking through media and making content choices, what interests they represent, and how those interests might

influence social and political values they convey and the public choices they advocate in media outlets (Stolte and Smith 2010). Media ownership transparency is an important check on abuses of media power (Thompson 2013).

Transparency of ownership involves identifying who the leading beneficial owners of firms are and who has controlling interest (Lange 1995). Transparency does not restrict ownership, but makes it visible so that the public can make informed choices about how to respond to the content provided. Understanding ownership of media is an important aspect of media literacy and in building trust in media institutions.

The impetus toward transparency results from the understanding that media are economically, socially, and politically important, and that their ownership and control can play an influential role in shaping political discourse. The degree of transparency required depends upon individual nations' company law, securities law, tax law, competition law, and media law and regulation (Picard 2014b).

Advocates of media ownership transparency believe this protection should be facilitated through free and easily accessible information. This information should be collected within a legally authorised framework and overseen by an independent regulator (Access Info 2013). In some cases, media firms are owned by holding companies, investment or financial institutions' funds, or trusts. The beneficial owners of these are encouraged to be included in the transparency. Much of the effort toward promoting transparency focuses on ways to reveal ownership by political figures, oligarchs, organised crime, and foreign individuals and firms, as well as ownership hidden through holding companies and offshore companies in jurisdictions where it can be kept secret.

Policymakers typically have greater scope for requiring ownership transparency in firms that are subject to public licences and regulatory oversight, such as broadcasters and telecommunications firms. They also may apply to print and digital media, especially news media that enjoy special positions in information provision, defamation laws, and privacy laws, or receive tax advantages and subsidies.

Media ownership transparency is related to general corporate transparency, but it is more significant because of its focus to reveal influences on the sources of information and debate positions in democracies. Transparency is included in best practices of good governance for companies generally and is increasingly sought by governments as a means of countering corruption, money laundering, and funding of criminal and terrorist activity (FATF 2014).

2.5.3 PROVIDING INFORMATION TO ENSURE THAT CONSUMERS UNDERSTAND ALGORITHMS AND OTHER AUTOMATED TECHNOLOGICAL INFLUENCES ON CONTENT CHOICE

This principle is a specific consumer protection of public interests that ensures the public is not unknowingly influenced by concealed choices of advertising, news, and informational biases by automatic selection and placement features. The intent is to

promote transparency and provide users with greater understanding about content providers' choices.

Search engines, content aggregators, social media feeds, and other digital content organisations provide both public and private benefits, but are increasingly relying on algorithms and other automated software to create, distribute, and highlight certain content in ways that produce social costs. These digital capabilities have led to preferential positioning and presentation bias (Bar-ilan et al. 2009; Rieder and Sire 2014), filtering and personalisation that reduce choice (Bozdag 2013), optimisation of media to increase selection and improve presentation (Dick 2001), and robotic news and information production (Dörr 2015; Carlson 2015; Lokot and Diakopoulos 2016).

These and other uses of contemporary technologies are hidden from users' view, typically involve proprietary software, often conceal business arrangements and interests, and mask the intent of those who create and employ technologies. It is crucial for the public to be aware of these algorithms and technologies and the general effects they have on content and information presentation so that they can adequately judge the reliability and importance of the content provided.

Algorithms and related codes are proprietary and there are public interests in protecting such property. Moreover, full disclosure can also enable outside actors to manipulate content prominence. Nevertheless, policymakers should ensure elemental transparency in such technologies and their general effects on information in ways that do not disclose the proprietary information itself, such as through labelling requirements and media literacy education. Such policies might require notifications of general preferences created by algorithms used on sites delivering content for which providers have received financial payment or have an ownership interest.

2.5.4 PROMOTING MEDIA AND COMMUNICATIONS ACCOUNTABILITY THROUGH LEGAL AND SELF-REGULATORY MECHANISMS

This principle is based on the premise that all individuals and institutions in democratic society, including those involved in media and communications, are responsible for their actions. They should be held accountable for unlawful actions that cause harm to individuals or society. Media and communications firms, content creators, and distributors should be accountable for these behaviours that cause undue harm through defamation, invasion of privacy, or providing misinformation or withholding information with the intent to mislead the public, or that harm national security. Accountability should address issues involving violations of journalistic norms and ethics, such as accuracy, impartiality, and fairness in the treatment of individuals and organisations. The degrees of accountability may differ depending upon culpability and influence over the production and distribution of damaging content.

In democracies, accountability and attendant punitive actions need to be exercised in measured ways to ensure that free expression is not unduly restricted

(Moore et al. 2012; Garton Ash 2016; Saunders 2017). The most serious breaches of laws and norms should typically be handled through legal and regulatory mechanisms and less serious breaches through self-regulatory private mechanisms.

When legal and regulatory mechanisms are used to discipline, they should be fair, equitable, and conducted by independent judicial mechanisms. Self-regulatory mechanisms may involve ombudsmen, press councils, advertising councils, and other industry-related mechanisms that have the authority to rebuke and levy appropriate sanctions. They also require independence from those whose behaviour they will adjudicate.

The growth of self-regulation is seen not only in media and communications but through the growth of corporate codes of conduct, standards, and monitoring (Haufler 2001). Challenges of national regulation of global activities have led to increased self-regulation of internet activities (Price and Verhulst 2004; Tambini et al. 2007). Self-regulation is being used to address a wide variety of media and communications issues (Schulz and Held 2004).

Policymakers working to establish accountability should ensure that constraints and practices promote, rather than inhibit, the public interest and do not restrict the right to information about government, business, and other institutions that affect the public. Policy should provide sensible and cost-effective mechanisms by which the public can seek redress, and should provide corrective actions and reasonable punitive measures designed to remedy and change inappropriate behaviours.

2.6. Pursuing Developmental and Economic Benefits

2.6.1 INCENTIVISING PRIVATE INVESTMENT IN INFRASTRUCTURES, SERVICES, AND INNOVATION

This principle is based on the desire of states to provide advanced communications systems and services to citizens, communities, businesses, and institutions to improve their ability to communicate and exchange information and promote social development and economic growth (Kelly and Rossotto 2012).

Countries around the world are increasingly turning to private investors to create these communications and media infrastructures and services and to promote innovation through research and development efforts. In doing so, however, it is sometimes necessary to incentivise the investment to obtain some of the desired social objectives and address issues of market failure, especially in providing universal or advanced services.

There are many reasons for the shift toward private financing, including lack of sufficient financial resources, insufficient technological knowledge, and absence of organisational capacity to implement infrastructures and service projects in state agencies. Many communications infrastructures and services have already been privatised in recent decades to introduce competition and lead to new investments and services, decisions underpinned by neo-liberal ideology.

The rapid development and implementation of new infrastructures and services, including fixed and mobile broadband telephony, Wi-Fi, cable/satellite, digital terrestrial television, and the internet, have all come about in part because of the opportunities and incentives provided to private firms and investors.

Private investment choices are influenced by the ability to produce profit and achieve adequate return on investment (Gaynor 2003). Achieving those objectives depends on the size of the investment, the amount of competition, the expected lifespan of the technology, and amounts of reinvestment anticipated over time (Vogel 2014; Tveitevoll 2012).

States relying upon private investment to create infrastructures, provide services, and for research and development to innovate and improve them need to ensure adequate incentives for such investments. These may include policies that provide appropriate returns and asset value growth, reasonable regulation, reduced right of way costs, tax advantages, a favourable competition law environment, and subsidies for connecting locations and providing public interest services that would not otherwise be commercially viable (Thomas 2010; Wernick 2007; Sadowski et al. 2009).

Merely providing incentives for private investment, however, is not enough to ensure the public benefits desired from creation and operation of the communications systems and services. Policymakers need to carefully align incentives with specific governmental objectives to ensure that outcomes support those objectives. One cannot assume that all investment will produce the desired results, so the incentives must be accompanied by performance and service requirements.

2.6.2 FOSTERING ECONOMIC COMPETITION AMONG PROVIDERS OF
      MEDIA/COMMUNICATIONS PRODUCTS AND SERVICES

The market is often praised for its abilities to serve private and public needs and deliver consumer and societal benefits. However, for the market to operate effectively, and to discipline producers, produce consumer choice and price benefits, and lead to social gains, a degree of rivalry is required among suppliers and consumers, and between suppliers and consumers. A fundamental economic principle is that the markets need to be competitive and free of concentration and anticompetitive behaviour if they are to produce benefits for all (Krugman and Wells 2012).

When policy relies upon competition to produce social benefits, policymakers must ensure that the market functions effectively to provide broader benefits for all. This is primarily done through policies that foster competition, encourage and facilitate new entrants, and enforce competition law against mergers and acquisitions that may reduce competition. Competition is useful in increasing diversity of content and choice in the most popular genres of audiovisual content and in promoting some political pluralism in the commercial press. Competition

alone, however, does not address issues of market failure and rarely provides for a necessary range of political and social pluralism.

In broadcasting, for example, competition has traditionally been encouraged by providing preferences for new entrants in licensing decisions (Picard and Chon 2004). Requirements that independent producers must be used for portions of broadcast content are also a means of fostering economic competition in production Doyle and Patterson 2008). In the digital world it is harder to address competition with these means, but innovative approaches may develop.

Competition law can be used to restrict mergers deemed to reduce competition. This criterion was easier to demonstrate when distinct media markets existed, but is more complicated in contemporary digital environments (Nikolinakos 2006). Policy can also ensure that those who provide content and simultaneously operate dominant distribution systems do not discriminate against competitors that need access. Although fostering competition among content providers is likely to increase the number of content providers, competition alone does not necessarily produce diversity or pluralism (van Cuilenburg 2007; Valke et al. 2015), as is often asserted in policies seeking those outcomes. Competition merely increases the possibility of diversity and pluralism unless combined with other policies.

2.7. Pursuing Equitable and Effective Policy Outcomes

This rubric and its related principles differ from previous rubrics by addressing principles that should guide the processes by which media and communications policymaking takes place. Although they apply to many types of policy, they are especially important to media and communications because of the strong social and public interests involved, particularly in democratic states.

2.7.1 FOSTERING MEANINGFUL PUBLIC CONSULTATION AND PARTICIPATION IN THE POLICY PROCESS

Public consultation is based on the principle that the public should participate in policy processes to ensure that decisions adequately and appropriately address their interests. It is also based on the assumption that better policy is produced when an open and transparent process is undertaken that fully involves the public.

Public consultation is a procedure used during policymaking processes to obtain the views of citizens and stakeholders about an issue and to determine alternatives for addressing it (OECD 2001). To be effective, it requires adequate and timely notification, information and idea exchange and discussion, and participation in drafting policy and law. Consultation relies on more than representative governance by more fully involving the public in deliberating issues and drafting specific policy (Fishkin 2009).

Consultations are designed to improve decision-making, particularly in large-scale democracies, and especially when addressing complex matters. They are designed to engage various stakeholders, including citizens, civic organisations,

businesses, public authorities, and subject experts. Effective consultations seek more than just public opinion and recognise that multifaceted subjects may require high levels of expertise. Nevertheless, good consultative practices recognise that individuals with less expertise can still express important community values and norms related to the issue.

Consultation can involve different types and degrees of citizen participation (Arnstein 1969). Consultations can be used to actively explore policy needs and options, to develop support for action, to obtain policy advice, to learn the implications of proposals, to discover how they will affect individuals, communities, and other stakeholders, to learn what interests will need to be accommodated or chosen among, to discover what other policy alternatives exist, and to validate the thinking of legislators and regulators.

Consultations may be undertaken through use of citizen advisory groups, public meetings and inquiries, legislative hearings, and other mechanisms. There is increasing use of eGovernance opportunities created by digital media in consultations; however, ongoing problems with unequal access to digital communications in many countries should be taken into consideration (Coleman and Shane 2011). The methods of consultation are not equal and can produce different types of results (Catt and Murphy 2003).

To be fully effective, those undertaking consultations must be committed to genuine and meaningful consultation, not merely following consultative procedure. Tokenism and minimal effort at consultation may delegitimise policymaking, leading to the perception that the process is skewed in favour of special interests, and that the public's views are not regarded as important.

Policymakers should be aware and respond to the advantages that large firms and industry groups have in these processes because of the costs of monitoring policy, preparing briefs and responses to proposed policies or issues, and their abilities to otherwise lobby for outcomes. Proactive efforts should be made to involve and consider the views of stakeholders with fewer resources to ensure the consultative process is not skewed toward stakeholders who can marshal greater resources.

2.7.2 EMPLOYING MULTIPLE POLICY MECHANISMS AND TOOLS TO ACHIEVE OBJECTIVES
This principle is based on the view that effective policymaking seeks to employ a range of mechanisms to achieve desired outcomes. It assumes that individual tools are not equally valuable for all objectives or in all environments and situations. Good policy seeks to coordinate media/communications, cultural, industrial, and competition policy mechanisms to achieve desired outcomes.

Tools are typically employed to organise media and communications markets, to create operating standards, to regulate or direct behaviour, and to respond to market failures. An array of tools are available that rely on regulation, mandates, incentives, penalties, and rewards. These include tools such as setting standards, technical specifications, operating requirements, fees and charges for use, restrictive

regulation in the forms of bans/limitations, support for public–private collaboration, and expenditures of resources to support desired functions or activities not being provided by the market. Objectives can also be pursued through the tools of taxation and tax credits, subsidies and other incentives, media spectrum allocation, ownership quotas, content quotas, content control regulation and private control (rating systems, parental control systems), grants, loans/loan guarantees, public contracts, and government advertising.

Policymakers are increasingly seeking to balance public and private provision of media content and public goods by promoting competition against policies of regulation to achieve desired outcomes (Salamon 2002).

The complexity of communications systems and cross-platform activities by media firms increasingly requires innovative intervention that employs new types of policy tools (Hood 2008; Goodman 2004). The global nature of communications has somewhat reduced the ability of nation-states to significantly control and direct media and communications internally. Efforts to create mechanisms and tools at the global level are slowly developing (Iosfides 2013).

Not all tools are selected for use in various countries, because not all issues may be domestically salient, and there may be little impetus or incentive to act. Furthermore, a nation's history, political system, ideology, and existing policies may limit the range of tools employed. Policymakers cannot borrow a policy mechanism from one country and simply transplant it to another, because the setting will be different and the policy will produce different outcomes. In some cases, states may not perceive domestic capability to address an issue effectively so no policy tool is selected. This absence of policy may create a void that permits undesirable actions by some stakeholders.

Policymakers should thus consider a wide variety of mechanisms and tools to pursue desired outcomes. They should also consider newer policy tools and change them when they become less effective.

3. Some Final Thoughts

Our policy principles can be applied to a wide range of media and communications technologies, systems, and services. Unlike policy tools and mechanisms that are fashioned for specific media and communications applications, principles transcend technologies and remain important in the contemporary digital environment, although how they are pursued may differ. The expansion of media and communications systems creates many more communicative opportunities for individuals and enterprises. Their characteristics, market structures, and operations in some ways repeat and in other ways differ from the concerns that media and communications policies addressed in the twentieth century. The new environment will require reconsideration of existing policy and different types of intervention; less in some cases and more in others. Getting that choice right can be efficaciously guided by employing policy principles before selecting specific policy tools.

As indicated earlier, our principles incorporate competing social demands, and policymakers should address them concurrently to determine how to obtain optimum social benefit. Balancing competing demands and making trade-offs should be done in a transparent decision-making process in which all stakeholders are able to effectively participate, and in which policymakers pursue equity, recognise the economic and financial effects of policy, and seek social gain from both public and private action.

Policy principles are inherently contentious, and the test of a healthy democratic society is to what extent such principles can be openly and publicly debated among diverse constituencies. The principles described in this report offer a reference point for discussion about the role of media in a democratic society, and the criteria by which media systems should be designed. Although many policy principles remain universal and commensurable over time and across countries, many others change with cultural and historical contexts. Thus, constant re-evaluations of these principles are necessary. As these reassessments of policy principles occur, it is of the upmost importance that all members of society take part in determining their definitions, delineations, and implementations. This report strives to help contribute to this process.

We look forward to the discussions that will follow.

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