

NUDGING AS A TOOL OF MEDIA POLICY

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rationales for media regulation

- > concerns about the impact of media content, particularly on children and other 'vulnerable' individuals;
- > the capacity to use media for citizen formation and the development of a national cultural identity;
- > 'public good' aspects of the media commodity, including non-rival and non-excludable elements of access and consumption;
- > tendencies toward monopoly or oligopoly in media markets; and
- > the potential relationship between economic power and political power arising from concentration of ownership of the means of public communication (Flew 2011: 63)

types of regulatory measures

- > **structural**—directed at the structure of media organizations and markets (e.g. media ownership rules; antitrust remedies)
- > **behavioral**— directed at the behavior of media outlets (e.g. restrictions on violence, sexuality and adult language; national content quotas)
- > overlapping measures
- > **diversity** as a prime objective (inherent to free speech practice)

diversity as a pre-condition of freedom of expression

- > access to pluralistic media content is seen as the necessary premise for the exercise of people's fundamental right to freedom of expression, which **'will be fully satisfied only if each person is given the possibility to form his or her opinion from diverse sources of information'** (Council of Europe 1999)

focus on supply

- > underlying assumption of contemporary media regulation
- > source diversity → content diversity → **exposure diversity**
- > causality may be unfounded; the user is missing

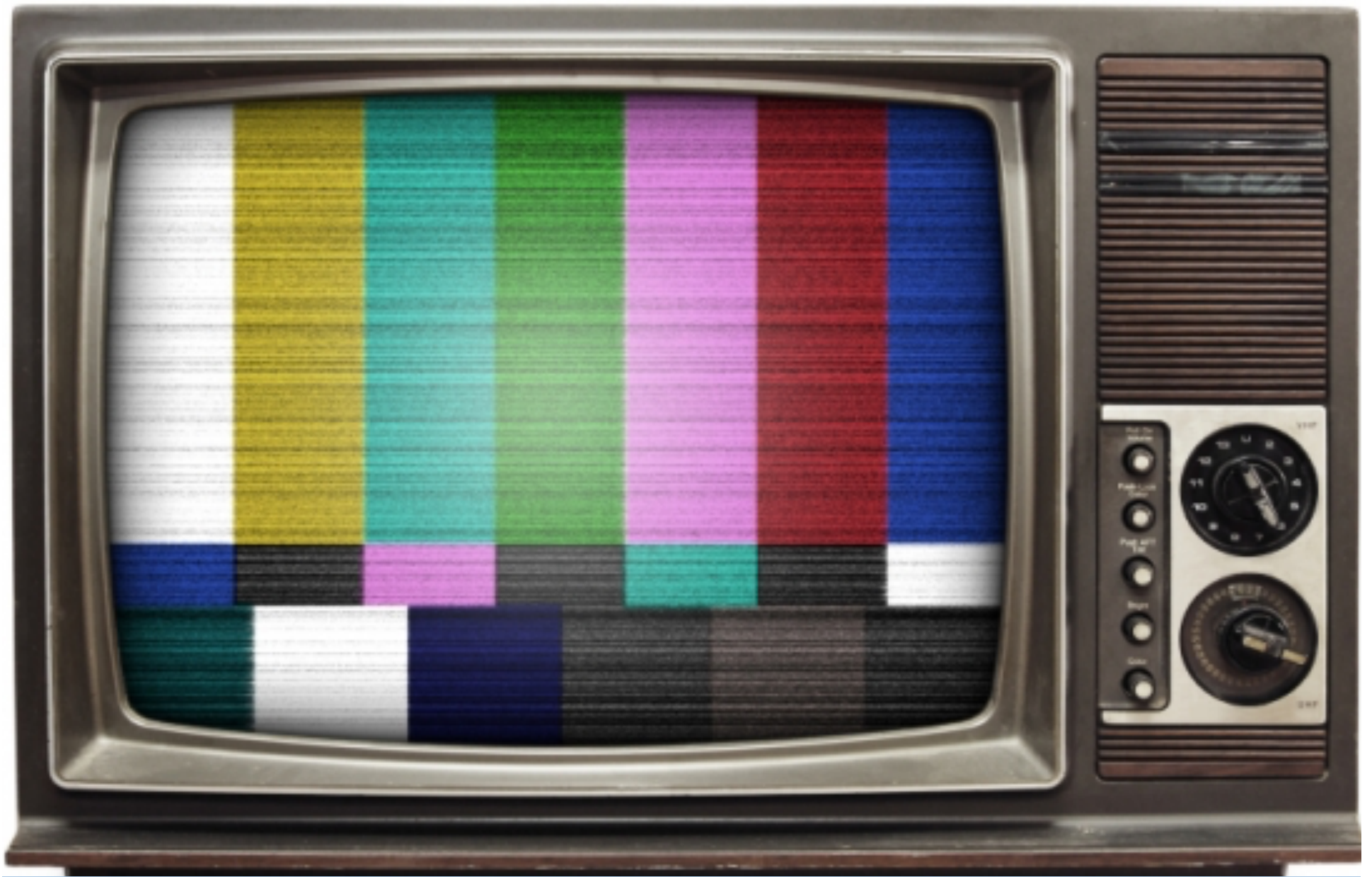
exposure diversity

- > not an explicit objective of media law and policy – either in the US, EU, or at the int'l level
- > **justified marginalization?**
- > precarious balance between regulating for exposure diversity and safeguarding citizens' individual rights, in particular freedom of expression

still, media regulation as nudging?

- > **all media regulation measures as conditioning exposure diversity**
- > **public service broadcasting (PSB) as an explicit form of paternalism**
 - guiding and incentivizing users to consume the ‘good’ content that is available on public service channels
 - PSBs function as ‘general-interested intermediaries’ to reduce information costs for citizens and broaden their mind

> **enter cyberspace**





the beautiful world of the internet (i)

- > unlimited 'shelf-space', abundance of content
- > new ways of distributing, accessing and consuming content
- > new modes of content production, where the user is not merely a consumer but also an active creator

the beautiful world of the internet (ii): a snapshot

‘empowered citizens are seizing control of the political agenda from the corporate handmaidens of mainstream media, forcing the powers-that-be to listen to the true voice of the people. Vigorous debate – now open to all – allows unprecedented levels of participation. Errors and lies by politicians, corporations, and irresponsible media are corrected quickly by the scrutiny of the crowd. Authentic stories about the lives of real people are part of a richer, more human information space. Easy and cheap multimedia production and remixing tools bring fresh new voices to light. The Internet connects us to people and ideas from around the world that we would never have encountered in the past’.

(Miel and Farris 2012)

the practical reality of the digital space

- > **abundance / diversity / communication without intermediaries can all be put under serious doubt** (e.g. Hindman 2012)

- > **focus: echo-chambers** (Sunstein 2007)
 - the personalization of the media diet promotes content that is geographically close as well as socially and conceptually familiar. This keeps users within familiar boundaries, feeding their curiosity with more of the same. When they are looking for new information, this reinforces existing opinions, gradually removing conflicting views

 - **fragmentation of the public discourse; polarization**

- > **Q:** how to react to this new environment and design apt state intervention that ensures diversity, in particular diversity in consumption?

nudging towards diversity (i)

> **framework conditions:**

- lower and equal thresholds for access to content;
- enhanced transparency as to default settings and terms of use;
- reduced interoperability barriers;
- increased legal certainty with regard to grey zones of copyright law and practice
- media literacy

> **more deliberate tools to promote exposure diversity:**

- for *finding* public service content (example: EPGs)
- for *highlighting* public service content: labelling

nudging towards diversity (ii)

- > **fostering serendipity**
- > introducing viewers to content they would not otherwise look for or challenging users' views and expanding their knowledge 'by chance'
- > '[s]erendipitous encounters might alleviate some concerns about restrictive coping strategies and a tendency in users to hide in their "information cocoons"', and "promote understanding" and open-mindedness, and thereby also advance democratic goals'
(Helberger 2011: 454; Sunstein 2007)

nudging towards diversity (iii)

- > **permissibility conditions:**
- > **embeddedness of the nudges**
- > **containing harmful effects on user autonomy and deliberation**
 - ethical acceptability of the intended persuasion, the methods used, as well as the acceptability of the outcome (Helberger 2015)
 - consistency with citizen and consumer needs and expectations; proportionality; flexibility; and value - in the sense that benefits exceed costs (Foster and Broughton 2014)

conclusions

- > **rethinking** you can lead a horse to water, but you can't make it drink
- > **conceptualizing new tools of contemporary media policy**

- > thank you !
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