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TIGHTENING OR LIBERALIZING REGULATION ON MEDIA CONTENT

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<u>Tightening or Liberalizing Regulation on Media Content.</u>

The way the question is formulated, one important precondition is taken more or less for granted. That is the assumption that it is possible – through national legislation – to regulate the content of what is presented by various providers of information and entertainment on the Internet. That is, in itself, a highly questionable supposition. The new information technology knows of no national borders. To claim that is a border crossing phenomenon would be too modest. By its very composition is it borderless.

Thus, the room for policies based on national legislation is rather limited. If the question of a more restrictive or a more liberal set of rules is to be discussed in a meaningful way, it has to be approached from a global angle.

The trendy concept of "globalization" has been nurtured to a large degree exactly because of the developments in information technology. I general, globalization is seen both as a process full of new opportunities and and as a threat to cultural and linguistic diversity. At present some nation states try to cope with what they perceive as negative impacts of this globalization by imposing various kinds of restrictions.

It would be too simplictic to claim that such restrictions don't work at all. We still have on this globe a number of closed societies, suffering under the regime of censorship and limitations of free speech. For the rulers in these societies, however, it has become ever more complicated and difficult to maintain their restrictive control.

Some observers of contemporary history have even made the point that modern information technology has played at crucial role in undermining authoritarian political regimes. The former Soviet Union is a case in point. During the years of glasnost and perestroika information flowed much more freely among groups and individuals that before, thanks to the fax machine. This mode of transmission turned out to offer new oppourtunities to circumvent official control and restrictions. It was no coincidence that the news agency, which was out in the forefront of the struggle for liberty and democracy, named itself Interfax.

Obviously, it could be argued that the Gorbatjov government was far more tolerant towards free circulation of information and ideas than the previous regimes. But still, the fax offered new possibilities for communication compared to the phone and the telex lines on the one hand and the mass media on the other.

This piece of recent history provides us with a useful illustration of the need to be precise in defining and understanding the specific characteristics of the various means of communication. The fax, just like the telex, the telephone or the good old postal system, is providing us with the possibility of point-to-point communication. In principle they are enabling two individuals or two

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enteties to exchange information and opinions. At the same time, however, they have been indispensable instruments for those engaged in mass media communication.

Also, these means of communication have been used to some extent to reach a broader audience. Through the mail or the fax we are receiving messages, which were not asked for, simply because these means of communication are used by certain entetities to distribute their messages - usually of a very commercial nature.

I'm reminding you of this use of more traditional media in order to stress the point that the new information technology is not necessarily *so* now in all its aspects. In some ways, as a matter of fact, the traditional means of communication could be used in a more intrusive way than the internet. Through the mail system or the fax others can impose on you messages you have never asked for or wanted to receive. On the net, at least, you are not confronted with anything you have not searched for yourself.

This is exactly *the* main point, when the use of, the impact of and the consequences of the Internet is subjected to a more profound analysis than the one all to often presented to the public in the traditional mass media. *Nothing* is enforced upon us as users of the Internet. What you receiive may not always be what you were looking after. But your own, active interaction is the point of departure.

In this sense a click to enter into cyberspace is not very different from entering into a well-stocked kiosk or bookshop. A vast majority of those titles available is outside *your* individual interest. In the kiosk or the bookshop you will focus immediately on the newspapers, the magazines or the books of special interest to you.

In principle, what we are subjected to at the Internet is exactly the same kind of choice. The only difference is, that there is so much more to chose between. In the kiosk or the bookshop, everything presented to us is in one way or antoher the result of an editorial decision. We are, so to say, customers of a product of the mass media business.

On the net things are somewhat different. Here we are able to acess a lot of products which are similar to those, we find in the kiosk or the bookshop. At the same time, however, we could also access web-sites put up by individuals. Instead of mailing a letter to the editor, subjecting this letter to editorial scrutiny, people put out their personal opinions on the net. It should still be remembered, however, that this will only be read by those who are actively searching for exactly *that* home page or site on the net.

Thus it is a severe misunderstanding to perceive the Internet as a new mass media. Granted, it is a perception which is rather widespread. But that doesn't in any way make it more justified.

The most common argument in favour of labelling the Internet as a mass media is that the number of customers is raising very rapidbly. If many million individuals use it every day, then is this not a proof of the net being a mass media?

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The answer is no. Unless you would label the telephone, the fax, the telex, the postal system as mass media. The point here is not the quantity of customers, but the very nature of the media. Internet is the strongest, the most potent point-to-point communication media we have ever seen. But that does not make it a mass media as such.

But then, it this important? One may very well ask, whether the well known definitions of mass media as opposed to the point-to-point communication means is still of any relevance. My answer is very strongly in the affirmative. Historically, in all societies with a democratic constitution and tradition a distinction has been made between the two. As a matter of fact, the fundamental principles, based on the ideals of human rights, have been very different.

When it comes to point-to-point communication such as letters and phone conversations the overriding principle has been to extend the ideal of protection of privacy to such forms of communication. Phone conversations are not to be tapped. Letters are not to be opened. They belong, so to say, to the realm of private life, which should be protected from state intervention.

With regard to mass media, the question is quite different. Here there is a strong tradition of legislative regulations even in the most liberal and democratic societies. The exercise of free speech is limited by laws on defamation, slander and pornography – just to mention a few. In any society such legislation presupposes a system of legal responsibility and accountability. A well-defined individual – it may by the editor, the journalist or the publisher - could be taken to task for the content of a print media story, a radio programme or a television programme.

The question raised in relation to the rapid expansion of the new information technology is, whether such legislation is sufficient to deal with the problems arising from this new mode of transmitting messages of all sorts. In answering that question it would be necessary to emphasize strongly one point, which is often misunderstod in the public debate. And I do by way of repetition. Contrary to a rather widespread assumption, the Internet is *not* a new mass media.

Some people arguing that it is, refer to the rapidly growing number of users. Since it is accessed by hundreds of millions every day, it must be a mass media. So runs the line of argument.

The notion of "mass media", however, is not dependend upon such a quantitative assessment. If it was, then the telephone most certainly could be defined as a "mass media". Or a big newsstand visited bay thousands of customers every day.

The peculiar quality, the defining quality of mass media is that it is constituted of a certain number of messages, selected and edited through an editorial process, in order to reach a wider audience. In the radio and television context this is very aptly referred to as broadcasting.

This question of definitions is not just an academic exercise. On the contrary it is of vital importance to be clear about these distinctions, when we examine the question of legislation in relation to the Internet.

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The central point here is, that Internet is not an edited product like a newspaper, a radio programme or a television programme. The Internet is a transmission system, certainly the most pervasive seen sofar, but still a kind og gigantic, electronic kiosk offering an extremely broad variety of messages.

Some of these messages derive from the producers of mass media. Newspapers, radio and television companies, use the net in order to widen their reach. The net, however, is also used for many, many other purposes. Some of them have given rise to criticism and concern.

The phenomenon which has created most concern on a worldwide basis so far is child pornography. Consequently, this may serve as an illustrating example of the problems of regulation.

Child pornography is prohibited by law in all nations of the world. This means that those people producing and publishing this filth on the net are violating the law in the country from which they operate. They can be taken to court and they can be punished according to existing penal codes. *If* they can be identified and apprehended.

Often it is exactly this question which gives rise to demands for stricter regulations on the content of massages on the net. But still, we should not forget that we are talking about an offense, which is regarded as criminal all over the world. So, what would be the purpose of stricter regulations, if the real problem lies in the enforcement of existing and adequate laws?

Well, it may be a way for politicians to satisfy legitimate public concerns. In reality, however, it will change absolutely nothing. The problem will still be related to the difficulties of holding those responsible accountable for their deeds.

Thus, the answer to the question posed in the title for this session must be that the new information technology in it self does not call neither for more restrictions nor necessarily for liberalizing legislations on media content.

That conclusion does not preclude, however, the obvious need in many societies to liberalize media legislation in order to bring themselves in conformity with the basic principles of freedom of expression. This, however, has nothing at all to do with new technology. Rather it is related to old-fashioned ways of wielding political power.

MEDIA OWNERSHIP: MORE REGULATION OR LESS

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