

Table 12.2 Curran and Seaton: ten minute revision

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**Concept 1:** *the media is controlled by a small number of companies that make products to create profit*

- Globalisation has concentrated media ownership into the hands of a few companies.
- Media conglomerates are horizontally and vertically integrated to maximise profit.
- Large-scale media producers rely on advertising to generate income.
- Advertising drives media companies to produce products that have mass audience appeal.

**Concept 2:** *media concentration adversely affects media content*

- The business function of the media industry takes precedence over its creative/public service capacities.
- Profit-driven media is softened to create mass audience appeal.
- Minority interest content is pushed to the margins of broadcast schedules.
- Free market competition produces format-driven products.

**Concept 3:** *diverse ownership creates diverse products*

- Curran and Seaton highlight the damage that free market ideologies have had on the media landscape.
- Public service broadcasting provides impartial news, serves minority audiences and champions national unity by offering inclusive rather than exclusive content.

**Three theorists who might challenge Curran and Seaton's thinking**

- **Clay Shirky:** argues that the media industry is increasingly driven by audience feedback systems rather than the top-down control of proprietors.
  - **Henry Jenkins:** would acknowledge that Web 2.0 enables big business to exploit the web for commercial reasons, but would also argue that the internet retains the capacity to work as a social good and that online communities created via 'participatory culture' have the power to change the world for the better.
  - **Steve Neale:** would critique the idea that media proliferation has resulted in a narrowing of product type or the dominance of formula-driven media. He would argue that audiences prompt producers to continuously adapt and finesse genre-driven material.
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## 13 Regulation

Sonia Livingstone and  
Peter Lunt

Sonia Livingstone and Peter Lunt's academic work constructs a critical analysis of the changing regulatory landscape in the UK over the last 30 years. Central to that analysis is an exploration of how the UK's approach to media governance has served the needs of audiences as both consumers and citizens.

Consumer-based regulation, Livingstone and Lunt tell us, is realised, first, through the creation of a media landscape in which audiences can choose the sorts of media content they can or want to watch and, second, by giving media producers the freedom to create products that those audiences choose to consume. A consumer-based regulatory framework, in short, seeks to guarantee audience choice and promote product diversity.

Conversely, a citizen-based view argues that the media ought to play a significant role in shaping society and its citizens — that television, newspapers, radio, etc. ought to educate and inform their audiences, while also performing a pivotal function in maintaining the democratic health of the nation that producers operate within. Governments and government policy, importantly, play a critical role in defining the kinds of content that the media ought to broadcast or publish in a citizen-oriented regulatory framework.

Crucially, in Livingstone and Lunt's view the media policies affected by successive governments over the last 20 years have worked in ways that have protected, by and large, the commercial interests of media producers.

### Concept 1: citizen and consumer models of media regulation

#### The consumer-oriented approach

A consumer-based regulatory approach offers the following advantages and features:

- **Regulation champions consumer choice.** Consumer-orientated regulation is designed, principally, to encourage media plurality and to ensure that a diversity of broadcasters operate within the media landscape. A consumer-led market allows audiences to be able to access a broad range of content, opinions and ideas.
- **Relies on consumer-led policing of programme content.** Content monitoring, Livingstone and Lunt argue, plays a secondary role within a consumer-based regulatory model, with audiences having to 'rely much more on their own judgements of quality, truthfulness and enjoyment' (Livingstone and Lunt, 2012, 16).
- **The state plays a minor role in determining media regulation.** A consumer-based regulatory model minimises the role that government plays in pushing media providers to make content that has specific benefits – news, factual programming, educational content for children, etc. The media's central role is to make content that is consumer led and not determined by government-led quotas or overbearing content codes.

#### The citizen-based approach

In contrast, the citizen-oriented approach provides the following features and advantages:

- **Constructs a media model based on civic republicanism.** Livingstone and Lunt argue that citizen-based regulation provides a content focused framework that directs media makers to 'contribute to the enrichment of cultural and social life and the potential for self-development of individuals, groups and communities' (Livingstone and Lunt, 2012, 39). Civic-minded media providers serve audiences not just with entertainment-based content, but also with education and information. Moreover, the civic republicanism model directs media producers to serve a diversity of audience types, both mainstream and minority, niche and broad.

#### Box 13.1 Discuss it: do you favour a consumer-based or citizen-based approach?

- Should media producers be compelled to provide educational content?
- Should we censor media content so that audiences are protected from seeing material that is offensive? To what degree should the government play a role in deciding what we should or should not watch?
- Should the media play a significant role in reinforcing democracy? What might happen if the media did not inform us through political coverage?

- **Citizen-based regulation foregrounds content issues.** Maintaining acceptable standards of content is a primary focus for citizen-based regulation. Content makers are tasked to ensure that accuracy is maintained and that programmes deal with issues in a fair and objective manner.
- **Encourages a media landscape that can critique governmental power.** Livingstone and Lunt argue that a central function of the media sector, if it is working properly, lies in its ability to hold the government and other sources of authority to account.

#### Communications Act 2003

The Communications Act 2003 was designed by the then Labour government to modernise the UK's regulatory systems and help the UK television industry become competitive in the globalised media landscape of the late twentieth century. The 2003 Act, among other things, promoted independent television production by requiring the BBC and Channel 4 to commission more content from smaller production companies.

Crucially, for Livingstone and Lunt, the replacement of the Broadcast Standards Commission (BSC) and the Independent Television Commission (ITC) with the new super regulator Ofcom through the Communications Act 2003 significantly diluted the public service requirements of television broadcasting. As a result, independent television production companies were freed up to produce content that was more commercially viable, but this also resulted, some critics suggest, in the production of programming that lacks the civic-minded republicanism that had been fostered within previous regulatory frameworks. Livingstone and Lunt

argue that Ofcom 'established institutional structures and roles relating to consumer policy ... Strikingly, little equivalent activity or accountability was forthcoming regarding actions to further citizen interests' (Livingstone and Lunt, 2012, 50).

More general criticism is levelled at the UK's current regulatory infrastructure regarding the way that the various bodies that are responsible for media oversight are managed. The organisations tasked to regulate the media are overseen, by and large, by staff who are drawn from the very industries they seek to police, prompting accusations of industry bias, while the codes of practice enforced are further criticised as light touch – existing, to a large extent, to protect the interests of vulnerable audiences and children.

### Self-regulation

In the absence of state guidance, media producers are left, to a large degree, to independently decide upon their own moral or ethical codes of production. As a result, most media organisations construct their own editorial codes to guide the creative personnel working under their remit. Of course, these editorial codes vary enormously from one institution to the next. *The Daily Star*, for instance, adopts a much looser approach to sexually explicit content than *The Guardian*, while the BBC's commitment to producing citizen-oriented content is far more extensive than its commercial rivals. Broadcasters and publishers will invariably use the following factors to help them define the editorial standards that their output should maintain:

- **Independent regulator codes of conduct:** most producers will apply the editorial codes of their sector-based regulator (see Table 13.1).
- **Audience-based factors:** producers and editors are sensitive to the needs and tastes of their target audiences.
- **Advertiser needs:** commercial producers are also mindful of the impact that editorial content will have on advertising revenues. Advertisers invariably place adverts in products that match their own brand values and will readily pull advertising if content does not match their own ethical steer.
- **Institution-oriented factors:** some organisations – the BBC and Channel 4 in particular – are obliged to provide citizen-oriented content as a result of their broadcasting licence agreements.

Table 13.1 Quick reference: key regulators operating in the UK

Regulator	Responsible for	Primary responsibilities
<b>Ofcom</b>	<ul style="list-style-type: none"> <li>• Commercial radio and television.</li> <li>• Video on demand (NOW TV, Amazon Prime but not Netflix or YouTube).</li> <li>• Jointly responsible for regulating the BBC alongside the BBC's board of governors.</li> </ul>	<ul style="list-style-type: none"> <li>• Tries to ensure that the media landscape is not dominated by a single organisation.</li> <li>• Oversees complaints from members of the public.</li> <li>• Protect those under 18 years old from exposure to harmful content.</li> </ul>
<b>Advertising Standards Authority (ASA)</b>	<ul style="list-style-type: none"> <li>• Print advertising (newspapers, magazines).</li> <li>• Ambient advertising (billboards, bus hoardings).</li> <li>• Radio advertising.</li> <li>• Television advertising.</li> <li>• Internet advertising (including YouTube).</li> <li>• Social media content in which online advertisers promote products.</li> </ul>	<ul style="list-style-type: none"> <li>• Oversees complaints made by members of the public regarding adverts.</li> <li>• Applies a standards code – mostly concerned with protecting vulnerable groups and to ensure accuracy in advert claims.</li> <li>• Pre-clears screen-based advertising.</li> <li>• Encourages self-regulation.</li> </ul>
<b>Independent Press Standards Organisation (IPSO)</b>	<ul style="list-style-type: none"> <li>• Regulates a voluntary membership of over 1,500 print (newspaper and magazines) and 1,000 online news titles.</li> <li>• Some newspapers have refused to sign up to the voluntary code, including <i>The Guardian</i>, <i>The Observer</i> and <i>The Financial Times</i>.</li> </ul>	<ul style="list-style-type: none"> <li>• The semi-official press regulator for the UK – oversees reader complaints that infringe its editorial code of conduct.</li> <li>• Has the power to levy fines of up to £1 million, but, in practice, has never issued any financial penalties.</li> <li>• Complaints are overseen by an adjudicating panel made up of industry based experts.</li> </ul>

continued

Table 13.1 Continued

Regulator	Responsible for	Primary responsibilities
<b>British Board of Film Classification (BBFC)</b>	<ul style="list-style-type: none"> <li>• UK film and video distribution.</li> <li>• Adult internet content.</li> </ul>	<ul style="list-style-type: none"> <li>• Operates a co-regulatory code that classifies films according to age appropriate criteria.</li> <li>• The key focus of the BBFC is to protect children from harmful content and to help parents make informed viewing choices for their children.</li> </ul>
<b>Pan European Game Information (PEGI)</b>	<ul style="list-style-type: none"> <li>• Console and PC games including console-related online gaming content.</li> <li>• Games developers self-certify their own content using the PEGI classification system.</li> </ul>	<ul style="list-style-type: none"> <li>• Operates a content code that enables age related classification of games.</li> <li>• Like the BBFC, PEGI's primary aim is to provide reliable information to guide parents when purchasing console games.</li> </ul>

### Box 13.2 Apply it: using Livingstone and Lunt to answer regulation-oriented questions

Livingstone and Lunt suggest that the UK is dominated by a consumer-based approach to regulation. Regulation impacts on products in the following ways:

- 1 A consumer-oriented regulatory approach has created product diversity in which audiences play a vital role in regulating their own media consumption.
- 2 Media producers are trusted to police their own content (guided by the 'light-touch' editorial codes of independent regulators).
- 3 Some media producers choose to include citizen-oriented content – social diversity, educational elements, etc. – as a result of following a public service broadcasting ethos.
- 4 Consumer-oriented regulatory codes exist, primarily, to protect vulnerable audiences.
- 5 Media producers face light-touch sanctions when editorial codes are infringed.

Use the following questions to help guide your analysis of the consumer impact:

- Consumer choice*
- Does the product contain material that is controversial?
  - In what ways does set text content meet the demands of the target audience?

*Self-regulatory effects and citizen-oriented content*

- In what ways does the set text police its own content? What prompts this self-policing?
- How do target audience/advertiser needs affect self-regulatory decisions?
- Does the product deliberately contain material that exemplifies a civic-minded approach? Why?

*Protection of vulnerable audiences*

- How do the set texts protect vulnerable users from content?
- Does the set text broadcast content that contains material that is problematic for vulnerable users? How?
- In what ways does the set text comply with regulatory codes to protect vulnerable audiences?

*Infringement issues*

- Has the set text ever infringed regulatory guidelines? What were the repercussions of those infringements?

**Exemplar: Broadsheet news titles (all exam boards).** Livingstone and Lunt's argument that the media landscape is dominated by a consumer-based regulatory system can certainly be applied to the newspaper sector. The Independent Press Standards Organisation (IPSO) oversees news and magazine standards in the UK but, many would argue, exercises a light-touch regime that is weighted in favour of producers (rather than their audiences) as a result of press domination of IPSO's governing body – with members often drawn from the newspaper industry rather than the wider public. IPSO's editorial code, however, does outline clear standards for the press – these are mostly concerned with editorial accuracy and the need to protect vulnerable members of the public, while infringements of the code can incur a £1 million fine. IPSO, however, has never levied any financial penalty, while a number of newspapers have refused to sign up to IPSO's editorial code (including *The Guardian*).

In the absence of an effective citizen-based regulatory framework, *The Guardian*, *The Telegraph* and *The Independent* have all individually developed their own exacting codes of conduct. These codes, of course, reinforce brand integrity, reassuring consumers and advertisers that they can maintain trust in the news gathering activities of broadcasters. But they also outline, in Livingstone and Lunt's words, an ethical commitment to 'civic republicanism' and to use their products in ways that seek to enrich our lives. We might have a light-touch regulatory system, but the institutional perspectives of the broadcast sector have enabled news gathering in the UK to maintain a citizen-oriented bias.

Further set text help is available for a range of products for all exam boards at [www.essentialmediatheory.com](http://www.essentialmediatheory.com)

### Concept 2: regulation in the globalised media age

Livingstone and Lunt tell us that the global nature of contemporary media production and distribution has weakened the UK's ability to effect meaningful control of media content. Indeed, producers that broadcast their products from outside of UK are largely exempt from the reach of domestic regulatory bodies that oversee content standards. Netflix stands as a useful exemplar here in that its America-based distribution system means that it is exempt from Ofcom control.

A similar regulatory challenge is produced by online media content. The failure of the Communications Act 2003 to address online material and the reluctance of UK governments to tackle the issue since then has prompted widespread dissatisfaction. The difficulties of internet regulation stem from the following:

- **The relatively recent expansion of online services.** Today's tech giants have expanded their reach at an extraordinary rate. Anticipating and reacting to the regulatory issues thrown up by that expansion has been hugely difficult.

• **Tech giants do not author their own content.** Because Facebook, YouTube and Twitter publish user generated content it makes it almost impossible for them to pre-vet problematic material. YouTube, for instance, claims to have over one billion users with some estimates suggesting that over 300 hours of footage are uploaded every minute. Companies have had some

### Box 13.3 Discuss it: should the internet be regulated?

- What evidence can you present to support the argument that the internet should be regulated?
- Have you ever seen any problematic online content?
- Does the internet pose a particular problem for vulnerable users? In what ways?

success in deploying content-vetting algorithms to automate their gatekeeping processes, but they currently lack the sophistication to solve meaningful regulatory issues in a satisfactory way.

- **Online media providers lie beyond the reach of UK regulation.** Much like Netflix, regulation of the internet's major content producers is made more difficult because their operations are based outside of UK.

- **The internet is decentralised.** Attempts to regulate social media giants may succeed, but regulation of the wider content of the net is a hugely difficult task given the extent of material available and the number of authors manufacturing content.

- **Online anonymity.** The anonymous authoring of content also makes it hard to identify individuals and to take meaningful action if content contravenes expectations.

Table 13.2 Apply it: diagnosing the impact of institutional context on regulation

Medium	Key themes
Television and radio	<ul style="list-style-type: none"> <li>• <b>Self-regulation and the BBC.</b> BBC producers exemplify a civic-minded approach to production, readily applying a citizen-based ethos to their products.</li> <li>• <b>Self-regulation and Channel 4.</b> Channel 4 was initially constructed as a public service broadcaster, and still retains much of that civic-minded ethos, yet a combination of budgetary constraints and a reliance on advertising has pushed the broadcaster towards what many would regard as a consumer-based production agenda. As a result, Channel 4 increasingly commissions content that promotes entertainment values over public service.</li> </ul>

Table 13.2 Continued

Medium	Key themes
Medium	<ul style="list-style-type: none"> <li>• <b>Increased competition for terrestrial broadcasters from global media.</b> Some would argue that the relatively weak regulatory approach by the UK government in terms of protecting UK content has allowed global media producers to dominate UK television viewing. The European Union, in contrast, is setting a 30 per cent quota to ensure that streaming providers make European content.</li> <li>• <b>Netflix.</b> Netflix is exempt from UK regulatory control. Netflix productions, moreover, is driven by audience data, with successful programmes and genres providing the creative steer for new shows. In this sense, Netflix operates a model of content production that is consumer driven. Netflix, too, has been criticised for its loose editorial approach, with shows like <i>13 Reasons Why</i> attracting considerable censure for its on-screen treatment of teenage suicide.</li> </ul>
Newspapers and magazines	<ul style="list-style-type: none"> <li>• <b>Weak press regulation.</b> The failure of the Communications Act 2003 to include the print news sector within the remit of Ofcom is seen to be particularly problematic. The creation of IPSO in the wake of the Leveson Inquiry, moreover, has prompted a great deal of criticism regarding the new regulator's failure to encourage citizen-based news values across the print sector.</li> <li>• <b>Broadsheet self-regulation.</b> Broadsheet newspapers, however, have tried to maintain their reputations by constructing their own citizen-oriented editorial codes.</li> </ul>
Online	<ul style="list-style-type: none"> <li>• <b>Limited regulation of online content.</b> The failure of the Communications Act 2003 to address internet-based content has resulted in a regulatory approach to online media that is relatively weak. Social media, in particular, lacks effective regulation.</li> <li>• <b>Online extremism.</b> The failure of social media to control fake news and extremist content is the result of a regulatory model that does not adequately take account of audiences as citizens.</li> </ul>

Medium	Key themes
Medium	<ul style="list-style-type: none"> <li>• <b>Protecting vulnerable users.</b> The capacity for social media to influence youth audiences is particularly concerning. Instagram's inability, in 2018, to remove content that encouraged teenage suicides prompted significant censure.</li> <li>• <b>Regulating online influencers.</b> The ASA, however, does regulate online advertising and has taken action to make sure that online influencers who endorse products through YouTube, Snapchat and Twitter declare any payments received to their followers.</li> <li>• <b>The difficulties of policing global online media.</b> Online media provides a further difficulty in that most content is delivered by tech giants who fall beyond the reach of the UK's regulatory system. The power and size of online media giants makes it incredibly difficult for the UK government to create applicable legislation.</li> </ul>
Film and gaming	<ul style="list-style-type: none"> <li>• <b>The creation of advisory bodies designed to protect vulnerable audiences.</b> Both the BBFC and PEGI play an advisory role in terms of informing parents about the content of products. In the case of gaming, the application of PEGI codes has had a limited effect on controlling the sale of problematic content to children.</li> </ul>

Table 13.3 Speak Livingstone and Lunt

Citizen-based regulation	Citizen-based regulatory systems outline a civic role for the media and encourage media makers to produce content that contributes to the social and cultural health of the societies in which they operate.
Consumer-based regulation	A regulatory system in which choices regarding content are largely devolved to audiences and where media makers are given as much freedom as possible to make the media that audiences want to consume.
Digital literacy	Sonia Livingstone advocates that audiences should be adequately informed about online content in a way that allows them to effectively evaluate the material they are presented with online.
Self-regulation	Self-regulation devolves regulatory decisions to industry practitioners.

Table 13.4 Livingstone and Lunt: ten minute revision

**Concept 1: citizen and consumer based models of media regulation**

- Citizen-oriented regulation is concerned with content-based issues.
- Citizen-based regulation is a positive form of regulation that directs media content so that it can improve the lives of citizens and contribute to the well-being of wider society.
- Citizen-based regulation promotes forms of media that are able to hold powerful groups to account.
- Consumer-based regulation seeks to ensure that the media landscape contains a variety of different producers so that audiences have choice.
- Consumer-based regulation seeks to ensure that the technological infrastructure that provides media to the public is fit for purpose.
- Consumer-based regulation creates an environment in which audiences themselves make judgements about the kinds of media that are appropriate for their consumption.
- A consumer-oriented approach has dominated the media landscape as a result of the Communications Act 2003 and the creation of Ofcom.

**Concept 2: the challenge of regulation in the age of globalised media**

- Globalisation has reduced the power of national governments to control the media – global companies operate beyond the scope and boundaries of any one country.

**Two theorists who might challenge Livingstone and Lunt**

- **Henry Jenkins:** would emphasise the benefits that the global digital media landscape offers. He would argue that digital media allows audiences to freely construct their own products and to make connections with like-minded individuals across the world. This process has also enabled some groups to affect deep-seated social change.
- **David Gauntlett:** again, would emphasise the benefits of globalisation. Globalisation, he might argue, has brought audiences into contact with a wide range of identities that they did not previously have access to. This has helped audiences to perceive their identities as fluid and not fixed.

## 14 The culture industry

David Hesmondhalgh

Hesmondhalgh's 'cultural industries' approach explores the media from the perspective of commercial production practices and makes two enormously important observations regarding the necessities of product development:

1 **Products exist as a result of their economic context.** Hesmondhalgh, first and foremost, tells us that media products are made within a commercial context. Much like any other business product, media content is manufactured to create profit, or, in the case of public service broadcasting, to maintain audience engagement. To gain a full understanding of the media industry and its impacts, Hesmondhalgh argues, we must appreciate the extent to which media-making decisions are guided by the needs of commerce as opposed to creativity.

2 **The media industry is a high risk business.** 'All business is risky,' Hesmondhalgh writes, 'but the cultural industries constitute a particularly risky business' (Hesmondhalgh, 2015, 27). The impossibility of predicting audience tastes coupled with the high costs of production and the effects of mass competition mean that the business of making commercially successful media is very difficult. The reduction of those risks, Hesmondhalgh argues, has compelled the media industry to be structured in highly specific ways with risk minimisation, moreover, playing a crucial role in directing the design and marketing of media content.