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Freedom for whom?

Investigating notions of freedom in European media and
communications policy, 1989-2021

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ABSTRACT

This thesis investigates the role of freedom in European Union media and communications policy from 1989 to 2021. Freedom is the primary yardstick for evaluating the functioning of democratic media systems, yet its normative underpinnings often go unscrutinised. By integrating ideational research and computer-assisted text analysis, the thesis adopts a novel approach to the study of media policy that comprises both quantitative and qualitative techniques. Conceptually, it draws on the broader philosophical literature on liberty and its adoption within media scholarship. It argues that freedom is best conceptualised as a triadic rather than dichotomous relation and sketches a schematic model of communicative freedom. The empirical analysis is based on a 1,012,159-token corpus containing policy papers and legal texts published by the primary European institutions involved in media legislation — the Commission, the Council, and the Parliament — and covering the major milestones in the policy field. Results indicate that although commercial freedoms prevail as an underlying rationale, the policy discourse has changed noticeably over the past 30 years. Whereas in early documents, freedom essentially amounts to the freedom of media companies to pursue economic objectives, more recent texts see individual freedoms come to the fore and highlight aims more closely associated with democratic goals and ideals. The thesis concludes with a critical discussion of the findings and outlines possibilities for future research.

INTRODUCTION

Media freedom once again takes centre stage in European politics. In August 2021, Polish lawmakers passed a bill prohibiting non-European companies from holding controlling stakes in Polish TV and radio stations. While the ruling PiS party was quick to point out that the initiative is merely aimed at tightening regulations, the proposed amendment to the Broadcasting Act is widely seen as an attack on one of the country's last independent media companies, TVN24. If signed into law, observers say it could deal a death blow to media freedoms in Poland.¹ European Commission vice-president Vera Jourová was quick to condemn the move and reiterated the need for a European Media Freedom Act, an idea first floated by Commissioner Thierry Breton in April 2021. Overall, the reaction mirrors a broader shift in the rhetoric of the EU, which has significantly stepped up its efforts to safeguard freedom of expression and media freedoms over the past year(s).²

In the case of Poland, the EU aims to shield journalists and the broader media system from government influence in an increasingly authoritarian state. In this perspective, freedom comes to mean freedom from political interference — a principle that has dominated thinking about media freedom since the emergence of the first newspapers. Theoretically, these freedoms are protected by constitutional and/or judicial provisions in all EU member states (Czepek *et al.*, 2009: 9). However, it is no secret that media organisations today suffer unprecedented woes, with business models crumbling in the wake of technological change, revenue competition becoming increasingly fierce, and transnational corporations expanding their control over communication infrastructures (Freedman, 2013: 60). Formerly hailed as the grand democratiser, the Internet is now the central arena of information warfare where

¹ <https://www.ft.com/content/7df184ee-6624-478d-a895-a93f0d4a326f> (last accessed 16 August 2021)

² <https://www.euractiv.com/section/digital/news/commission-to-propose-a-european-media-freedom-act-breton-says/> (last accessed 16 August 2021)

trustworthy, informative and reliable content threatens to drown in a sea of noise, making democratic deliberation seem like a tale from a long-lost era.

What does freedom of communication mean under such conditions? At best, we could classify free expression and media freedom as utopian ideals — approximable but unattainable (Bennett, 2014: 2). At worst, they become “tired and incoherent mantra[s]” (Tambini, 2012: 2) infused with the values of free-market capitalism, invoked by media companies and other powerful actors to justify unchecked economic power. In theory, no one opposes freedom of communication. In practice, the phrase has attained “kaleidoscopic power” (Keane, 2013: 217).

As Karppinen (2019: 72-73) points out, the literature is replete with studies focussing on institutional, economic, or technological aspects of media policy. Yet, ideas like freedom are often taken for granted as normative principles and therefore remain unscrutinised. By investigating notions of freedom informing European Union (EU) media and communications policy over a span of 30 years, I aim to address this gap, proceeding in five steps. First, I revisit the central tenets of Isaiah Berlin’s theory of liberty, the criticisms levelled against it, and outline how the positive/negative dichotomy popularised by Berlin continues to inform accounts of communicative freedom. Subsequently, building on arguments by MacCallum (1967), Gibbons (2012; 2020) and Tambini (forthcoming), I sketch a triadic model of communicative freedom.³ In the third section, I summarise the dynamics of EU policymaking in the field of media and communications. After presenting the research design, I proceed to the empirical analysis. I conclude by reviewing and critically evaluating the findings and outlining potential avenues for future research.

³ While freedom of expression and media freedom are separate concepts, I adhere to the broader terms “freedom of communication/communicative freedom” here, not least because it allows me to draw a more encompassing picture of communicative dynamics in an age of media convergence.

THEORETICAL FRAMEWORK

Freedom in contemporary political thought: Berlin and beyond

Despite an abundance of both pre- and postmodern scholarship on freedom, Isaiah Berlin remains a major reference point for many contemporary accounts of liberty⁴ and, as we shall see in the next section, has also widely inspired thinking about media freedom. In his 1958 inaugural Oxford lecture (and the 1969 re-published edition), the philosopher famously distinguished two forms of liberty, negative and positive. While Berlin is not always consistent in his exposition (see Edge, 2013), the distinction he draws is perhaps best encapsulated in his claim that the two concepts correspond to two different questions: “What is the area within which the subject — a person or group of persons — is or should be left to do or be what he is able to do or be, without interference by other persons?” versus “What, or, who, is the source of control or interference that can determine someone to do, or be, this rather than that?” (Berlin, 1969: 121–122). Harkening back to Hobbes and Bentham, Berlin links the first question to negative liberty, which he understands as noninterference, typically embodied in the absence of coercion. Positive liberty, on the other hand, is closer to a Kantian understanding of freedom, as it is fundamentally about self-mastery, autonomy, and the “wish to be a subject, not an object” (ibid., 131). His essay is commonly read as an endorsement of negative liberty against the historical backdrop of the Cold War, as he warns that the positive conception abets freedom’s inversion into paternalism, or yet worse, crude tyranny disguised as liberation (ibid.: 137; Crowder, 2008: 75).⁵

⁴ I use the terms *liberty* and *freedom* interchangeably here. For a differentiation attempt, see Pitkin 1988.

⁵ Contrary to frequent misconceptions, Berlin does not unequivocally defend unrestrained individual liberty. In the introduction to the 1969 edition, he clarifies his stance by highlighting “the bloodstained story of economic individualism and unrestrained capitalism” while underlining the need for “intervention by the state or other effective agencies, to secure conditions for both positive, and at least a minimum degree of negative, liberty for individuals” (Berlin, 1969: xlv-xlvi).

Berlin's work has spawned a plethora of exegeses and critiques, which can only be broached cursorily here. Firstly, scholars have refuted his overly narrow conception of negative liberty and the concomitant lack of consideration given to impediments resulting from anything other than human coercion. By largely separating the concept of freedom from the conditions of its exercise, so the argument goes, Berlin systematically disregards other external restraints (e.g., poverty) or barriers to freedom internal to the mind (Taylor, 1979; Honneth, 1999). Others have claimed that he lumps together too many elements under positive liberty (Kis, 2012). Yet another prominent strand of critique holds that Berlin undervalues freedom as non-domination and absence of dependence, as argued by thinkers in the republican tradition such as Philip Pettit (1999) or Quentin Skinner (2003). Not least, criticism has repeatedly been directed against his identification of positive liberty with value monism and negative liberty with pluralism. While the former represents the idea that a single overriding rule can provide answers to moral conflicts, the latter designates the fundamentally incommensurable and conflictive nature of human values (Crowder, 2008: 132f; Kis, 2012: 33), and entails a "necessity to choose between absolute claims" (Berlin, 1969: 169). As we will see in the following section, this argument has direct ramifications for theories of free communication since it lends credence to the idea that freedom of choice is a sufficient condition for negative liberty (Kiouпкиolis, 2009: 479-480).

As this brief exploration highlighted, Berlin's seminal conception is simultaneously idealistic and individualistic. Beyond the scholars outlined above, several authors have tried mitigating the shortcomings of liberal and republican theories and suggested alternative ways of apprehending freedom.⁶ Notable examples include Sen (2001; 2009), who situates freedom within people's real-life capabilities; Honneth (2014), who develops an account of negative, reflexive (positive) and social freedom based on 'normative reconstruction', that is, investigating how social norms are embodied in and realised by existing institutional and social arrangements; and agonistic theories à la Laclau and Mouffe, in which freedom is always

⁶ See Karppinen (2019) for an overview.

inherently constrained and bound up with struggle (see also Kioupkiolis, 2012). Although these accounts have theoretical and analytical merits, they only provide partial remedies to the shortcomings of Berlin's conception. While the capabilities approach largely maintains Berlin's individualist bias, Honneth's reconstructive method, by endogenously deriving normative benchmarks from existing social practices, runs the risk of entrenching the status quo rather than carving out possibilities for expanding freedom (Shafer, 2018). Finally, like many poststructuralist-inspired theories, the various models of agonistic freedom operate on a fairly high level of abstraction, rendering their transposition into social reality somewhat tricky.

A prominent proposal that transcends Berlin's hierarchical distinction but retains a level of workability was formulated by Gerald MacCallum (1967) and later taken up by John Rawls ([1971] 1999). Building on Felix Oppenheim, MacCallum (ibid.: 314) argued that freedom should be understood as triadic rather than dichotomous:

Whenever the freedom of some agent or agents is in question, it is always freedom from some constraint or restriction on, interference with, or barrier to doing, not doing, becoming, or not becoming something.' Such freedom is thus always of something (an agent or agents), from something, to do, not do, become, or not become something; it is a triadic relation.

Instead of revolving around the moral essence of liberty, he wrote, discussions of freedom should always involve a specification of these three elements (ibid.: 313). Such a proposal is useful in several regards. Not only can it help us evaluate how specific socio-political configurations obstruct or enhance an individual or collective agent's actual freedom. MacCallum's account is also pertinent beyond the terrain of political philosophy, as it offers an intuitive framework for thinking about freedom of communication. In what follows, I first return to the Berlinian distinction and outline its adoption within theories of freedom of

expression and media freedom. Subsequently, I show how a model of communicative freedom building on the triadic formula can usefully complement positive/negative distinctions.

Disentangling freedom of communication — who, by which means, to what ends?

Despite increasing plurality in perspectives (see, e.g. Schejter and Tirosh, 2016), theories of freedom of expression and media freedom still largely take their cues from liberal scholarship as outlined above, with the Berlinian positive/negative dichotomy persisting as an undercurrent in policy, law, and media theory (Picard, 1985; Lichtenberg, 1987; van Loon, 2000; Barendt, 2007; Kenyon, 2014; 2016; 2020; 2021). Early liberals like John Milton and John Stuart Mill viewed freedom of speech almost exclusively in negative terms, as the pursuit of unrestrained publishing activity under the absence of government interference, though their ideas obtained a libertarian alloy only through later reinterpretation in American legal and political discourse (Thompson, 1995: 239; Nordenstreng, 2007; 2013). In relation to the media, the notion of positive freedom gained ground in scholarly work and policy formulation only after World War II, e.g. in the shape of the *social responsibility theory* of the press (Siebert *et al.*, 1956), embodied in the approach taken by the U.S. Hutchins Commission, as well as in post-WWII European broadcasting regulation (Nieminen, 2016: 42; Tambini, forthcoming: 42). Later, Austrian journalist Günther Nenning also explicitly applied Isaiah Berlin's model to the press (Picard, 1985: 45).

In a nutshell, defenders of the positive conception maintain that bare liberty against state interference is insufficient for democratic discourse to flourish, and call for mechanisms that guarantee a plurality of voices, viewpoint diversity, and access to the public sphere (Kenyon and Scott, 2020: 2). Following Lichtenberg (1987: 334), one could also call the two principles *noninterference* and *multiplicity of voices*. More recently, these have also been related to the notions of *market-driven* versus *democracy-driven freedom of expression*, although there is no one-to-one correspondence between the two dichotomies (Edström *et al.*, 2016). While the former approach and the associated metaphor of the 'marketplace of ideas' remain more influential in the North American legal tradition, the latter is often associated with welfarist or public

interest-oriented (Northern) European media models, especially in relation to broadcasting regulation (Hallin and Mancini, 2004: 49; Karppinen, 2016: 42–43). Most democratic societies today recognise that freedom of expression and derivative freedoms require — to stay within the dichotomy — both positive and negative provisions (Pickard, 2016: 67). However, it is a truism that legal freedoms are qualified rights that can never be absolute and require balancing against other rights and privileges (Tambini, 2012: 5). On a theoretical level, it is more rewarding to scrutinise how communicative resources and entitlements are distributed between different agents, collective and individual, within a given socio-legal arrangement.

Thus, following the theoretical considerations outlined in the previous section and building on arguments by Kenyon (2016), Gibbons (2012; 2020) and Tambini (forthcoming), I contend that to conceptualise freedom of communication in modern media systems, we need to transcend the classical binary. Not only do the terms *positive/negative* carry strong connotations — like the assumption that state intervention is per se conducive to a free media system, or that positive and negative freedoms are antithetical (Picard, 1985: 49; Kenyon, 2016: 31) — but they also often entail underspecification. A comprehensive account of communicative freedom has to lay down the agents of freedom, the scope of (il)legitimate constraints, and the goals associated with free expression (Tambini, forthcoming: 126-141). Not only are these questions of conceptual, political and legal significance but, against the backdrop of rapid technological change, an increasingly challenging endeavour. However, it is important to note that my goal is not to sketch a normative or legal theory of media freedom, as this has been done elsewhere (Koltay, 2015; Oster, 2013; 2015; Tambini, forthcoming). Rather, building on the existing literature, I aim to disentangle *the agents, constraints, and aims* associated with communicative freedom on both an individual and institutional level, particularly with regard to the subsequent discussion and examination of European media and communications policy.

When looking at the *agents* or *subjects* of freedom, we need to differentiate between freedom of expression as an individual and media freedom as an institutional right. Under the U.S. First Amendment, freedom of expression and media freedom are largely seen as coextensive. In

many European legal systems, special protection clauses for media speech have meaning beyond an individual's right to communicate via media technologies (Oster, 2015: 27).⁷ However, the two principles also need to be separated for analytical and normative reasons (Tambini, 2012: 3). In the classical Millian defence, three arguments are advanced in favour of (individual) free speech: the argument from autonomy (allowing a speaker to disclose his/her authentic self to others), the argument from truth (the clash of ideas leads to the emergence of truth), and the argument from democracy (to exercise democratic rights and self-government, citizens require access to reliable information) (ibid.; Bonotti and Seglow, 2021). However, media institutions are not individuals, and the invocation of these principles by powerful organisations can all too easily lead to a blurring of legal boundaries in favour of self-serving interests (O'Neill, 2012). Media freedom is instrumental rather than inherent; it is a 'serving freedom' that relies on the latter two rather than the first argument (Oster, 2015: 33; Grimm, 2021: 548). By dint of their amplifying function and concomitant significance for public discourse, media institutions are afforded special rights and carry special responsibilities.⁸ These may come into conflict with citizens' expressive rights and freedoms and can be interfered with to avert harm to individuals or the public (Oster, 2013: 59; 2015: 33). Due to spectrum scarcity and the social impact of broadcast media, broadcasters have historically been held to higher regulatory standards than newspapers (Tambini, forthcoming: 86).

Of course, in the digital age, the question of what and who constitutes media is increasingly difficult to answer, which is why scholars like Oster (2013) have suggested that *the media* should not be defined materially or organisationally, but according to the function an individual or organisation fulfils for public discourse. Whether digital intermediaries and platforms should be regulated as media, and can therefore claim the privileges attached to this

⁷ E.g. Article 5(1) of the German Basic Law, Article 21(2) of the Italian Constitution, or Article 11(2) of the European Charter of Fundamental Rights.

⁸ In this respect, Koltay (2015) contends that media freedom should also extend to the rights of the audience as receivers of media content and, more broadly, to society as a whole.

status, is a crucial question with no straightforward answer. Over the following years, the coevolution of political instruments and legal standards will determine the course of action in this regard (Flew *et al.*, 2019; Tambini, forthcoming: 130).

Regarding the *scope of constraints and impediments* to free communication, liberal theories in the Berlinian, Miltonian, and Millian traditions are usually concerned with the absence of government interference or political censorship alone, leading to a conflation of media freedom with the freedom of owners (Dawes, 2014: 22; Gibbons, 2020: 19; Tambini, forthcoming: 90). However, in the “age of corporate libertarianism”, as Pickard (2016: 63) aptly puts it, it is crucial to apprehend *freedom from* as encompassing both state and market forces, as well as broader social and cultural conditions that can hamper free communication. It needs no stressing that the concentration of economic power in the hands of media owners, publishers, and advertisers not only has detrimental effects on the quality of editorial content but, as the UK phone-hacking scandal illustrated, substantial ramifications for individual privacy (Dawes, 2014; Fenton, 2014). Indeed, the question of how to create communicative spheres that are free from excessive corporate power becomes all the more pressing in a world where privately-owned platforms, infrastructures, and algorithms gradually come to replace the legacy media as informational and discursive gatekeepers. The European approach to balancing freedom from state and market interference, particularly in the broadcasting and telecommunications sector, has been establishing regulatory bodies with an ‘arms-length distance’ from the state — even if for individuals’ expressive freedom, the source of censorship may ultimately matter less than whether a medium affords access and voice (Tambini, forthcoming: 18). Accordingly, public intervention in media markets is frequently justified on the grounds of increasing content diversity and safeguarding pluralism. However, media pluralism, both external and internal, is no unambiguous policy goal. While enhancing the range of viewpoints, information, and voices within a media system can be conducive to the quality of public deliberation; there is the risk of slipping into uncritical praise of diversity understood simply as increased consumer choice (Karppinen, 2013: 60). If the commercial logic

undergirding news and media content circulation remains unaltered, pluralism is not necessarily a democratising principle, as mere viewpoint diversity does not necessarily entail exposure diversity (Craufurd Smith and Tambini, 2012: 50). Under conditions of communicative abundance (Keane, 1999), the problem might lie less in availability as such but rather in access to and discoverability of a range of reliable, high-quality information that satisfies the public's communicative needs and incorporates minority viewpoints, especially in the digital sphere (Fenton, 2014: 33; Hansen, 2015: 772; Gibbons, 2020: 25–26; Mazzoli, 2020).

Finally, the *aims of communicative freedom* are directly related to the previous two points. When it comes to media institutions, *freedom to* cannot be reduced to mere operative freedom for journalists and media organisations but needs to encompass broader notions of public interest and responsibility, accompanied by discussions about types of media speech more and less worthy of protection (Tambini, forthcoming: 134f). Concomitantly, individual communicative freedoms have long been theorised in terms of an unrestrained capacity to speak, which, in its most 'negative' conception, sanctifies the right to make noise (Gibbons, 2012: 26). However, as Reid (2017: 79) and Koltay (2015: 50) point out, the audience's freedom to receive and access tends to be neglected from such a perspective, as does the right to reply to work transmitted via the media (enshrined in (not uncontroversial) 'right to reply' laws in some jurisdictions; see Tambini, forthcoming: 59). Such a view recognises communicative freedom as being fundamentally rooted in agency. Furthermore, it takes into account structural conditions en- or disabling people to make active use of the means necessary for communication (Gibbons, 2012: 27-29), thereby transforming freedom from a (Berlinian) *opportunity concept* into an *exercise concept* (see above). A corollary of this aspect is the right to receive information, as enshrined, for example, in Article 10 of the European Convention of Human Rights (ECHR). However, as Eskens *et al.* (2017) argue, the increasing personalisation of online information environments might necessitate rethinking the meaning of this clause, which thus far has only created limited obligations for positive state intervention (*ibid.*: 263). Recent EU initiatives like

the Digital Services Act (see below) and the Democracy Action Plan⁹ have reinvigorated discussions about the importance of an active and informed citizenry, which has been a guiding policy principle in post-war Europe (Nieminen, 2016: 42).

As the preceding discussion has shown, freedom is simultaneously a philosophical, political, social, and legal ideal encompassing a complex web of actors, aims, and constraints. To quote Keane (1992: 123),

‘[F]reedom of communication’ comprises a bundle of (potentially) conflicting component freedoms. [...] at any point in time and space some citizens will normally choose to remain silent and only certain other individuals and groups will choose to communicate with others; and [...] this freedom publicly to express or receive opinions is not identical with the freedom to own and to control the means of communication.

Figure 1 below serves as a graphical illustration of the model of communicative freedom devised in the previous section. While by no means exhaustive, it highlights the principal actors involved in, aims associated with, and constraints potentially hampering free communication in modern democratic media systems.

⁹ https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/european-democracy-action-plan_en (last accessed 4 August 2021)

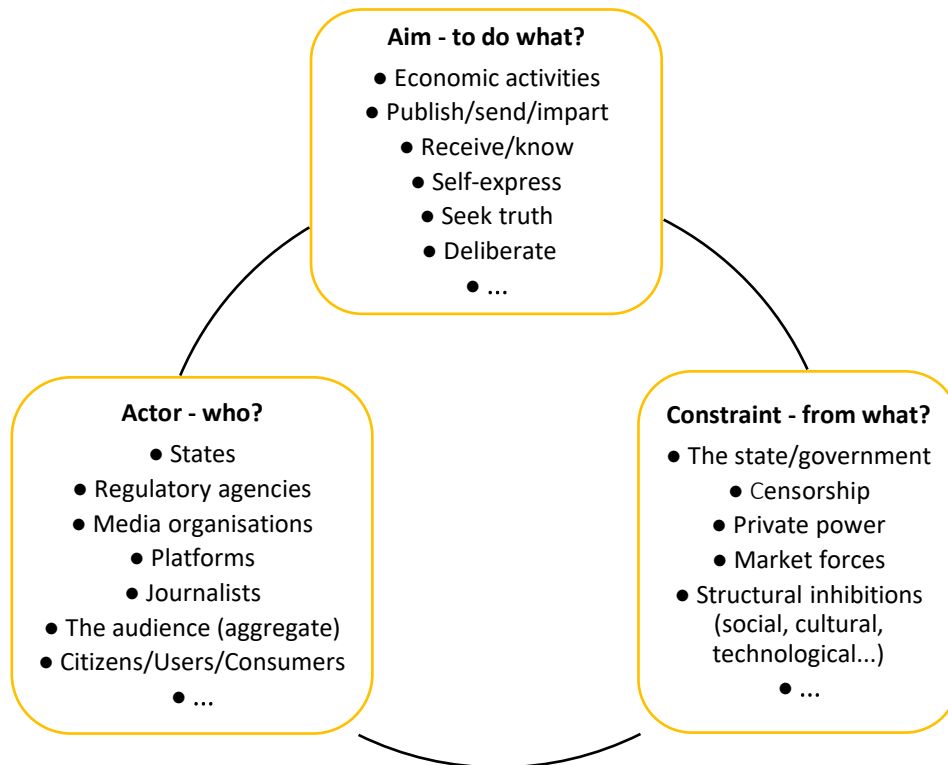


Figure 1: An integrated model of communicative freedom

In the next section, I give a brief overview of EU media and communications policy. Subsequently, I outline the research design and proceed to the empirical analysis.

The evolution of European Union media policy

European media policy is an intricate affair.¹⁰ In addition to the role played by the various bodies of primary and soft law,¹¹ the policymaking process is characterised by cross-cutting

¹⁰ European media policy here refers to policymaking at the EU level. Due to space constraints, the role of bodies at the (sub)national level and other supranational organisations like the Council of Europe cannot be taken into account.

¹¹ Most important for the European context are the Treaty on the Functioning of the European Union, The Single European Act, the Treaties of Maastricht, Amsterdam, Nizza, and Lissabon, Article 11 of the European Charter of Fundamental Rights (EuChfR), Article 10 of the European Convention of Human Rights (ECHR), and various conventions and resolutions by the Council of Europe (see Oster, 2017: xliii-liii).

legal remits, competing logics, and often conflicting interests (Donders *et al.*, 2014). The interinstitutional dynamic within the EU is often framed as a tug of war between the European Parliament on the one hand and the Commission and the European Court of Justice on the other. While the former tends to stress the media's democratic and cultural functions, the latter two predominantly emphasise economic aspects in their legislation and jurisprudence (Czepek *et al.*, 2009: 14; Jakubowicz, 2012: 255).¹² However, although the Lisbon Treaty afforded more powers to the European Parliament, the Commission is still the only body with the right to propose legislative initiatives, making it the primary shaping force in EU media policy (Cockborne and Trettenbrein, 2008; Nowak, 2014: 100).

On a vertical level, member states retain most competencies regarding the media and adjacent cultural issues. As elsewhere, newspapers in Europe have traditionally been in private hands and enjoyed considerable autonomy, which is why European media policy initially meant television and film policy (Michalis, 2014: 128; Nowak, 2014: 96-97). However, due to political pressure and technical convergence, the EU has gradually expanded its activities in the field over recent decades, engendering, like in other areas, increasing Europeanisation of national media and communications policymaking (Harcourt, 2002: 737; Papathanassopoulos, 2018: 119). EU competencies now span almost the entire communication sector, including audiovisual media, telecommunications, information and communication services, electronic commerce, digitisation, and specific individual rights such as data protection (Brogi and Parcu, 2014: 256; Papathanassopoulos, 2018: 120). A cursory and by no means exhaustive overview of the most important policy milestones serves to illustrate the development of the current regulatory framework and sets the scene for the following empirical analysis.

Broadcasting came under EU jurisdiction through a 1974 ruling by the ECJ (the Sacchi case) when European media systems (apart from the press) were still primarily characterised by national monopolies of public service broadcasters (Jakubowicz, 2012: 239; Michalis, 2014:

¹² Sometimes, this tension is also couched in terms of a clash between 'dirigistes' and 'liberals' (Pauwels and Donders, 2011, 527).

131). A confluence of social, economic, and political factors eroded this 'postwar policy paradigm' in the 1980s, ushering in a phase of liberalisation and increased competition at the expense of hitherto dominant sociopolitical concerns (van Cuilenburg and McQuail, 2003: 191–192). Accordingly, the implementation of the first significant piece of EU broadcasting legislation, the 1989 Television Without Frontiers Directive (TWF, updated in 1997), was heavily guided by economic objectives. TWF was aimed at creating a single market for television services by harmonising national legislation and sought to strengthen the competitiveness of European broadcasters internationally, not least because the media industry was identified as a growth sector (Harcourt, 2002: 739; 2005: 65).¹³ It also introduced a minimum quota for European works and the country-of-origin principle, whereby a media company can only be regulated in the country of establishment rather than the country of reception (Michalis, 2014: 134).

The 2007 Audiovisual Media Services Directive (AVMSD) retained many of the provisions set out in the TWF while trying to meet the challenges of an increasingly Internet-based and convergent media environment. It expanded the scope of regulation to nonlinear services, updated the rules for television advertising, and generally signalled a push towards more co- and self-regulation in the media and communication industries (Harro-Loit, 2010: 47; Pauwels and Donders, 2011: 533).¹⁴ In the wake of the 2004 and 2007 EU enlargements, the late 2000s also increasingly saw ideas of pluralism and the protection of media freedoms come to the fore (Costache and Llorens, 2015: 168). However, similar to a host of more or less fruitless efforts to address media pluralism in the 1990s (like the 1992 Pluralism Green Paper and its follow-up publications), the Commission still primarily subsumed issues of pluralism under

¹³ As Michalis (2014, 134) and Harcourt (2005, 64) point out, the heavy focus on competition policy and bracketing of cultural, content- and concentration-related questions is also attributable to Commission efforts to safeguard the EU's jurisdictional responsibility, not least because the Directorate General responsible for drafting TWF was DG III (Industrial and Market Policies).

¹⁴ The preamble also underlines the importance of audiovisual media for freedom of information, diversity of opinion, and media pluralism (see Recital 5 AVMSD).

competition policy (Karppinen, 2007b: 21; Christensen, 2010: 39-41). Other initiatives launched since 2010, like *Creative Europe* and its *MEDIA* sub-programme, sparked renewed discussions about European content in the digital era and state aid to the media (Nieminen, 2016: 46). However, against the backdrop of rapidly accelerating technological change and the erosion of media companies' business models, the EU's actions in this regard can also be understood as an attempt to safeguard competitive advantages in the digital age (Jakobsson and Stiernstedt, 2012: 53). In December 2020, the European Commission announced its latest media-related legislative package, which is currently being reviewed by the European Parliament and member states. With its twin proposals for a *Digital Services Act* (DSA) and a *Digital Markets Act* (DMA), it intends to put in place a regulatory framework for online intermediaries (with varying obligations according to market size) and foster digital growth through new competition rules (Tambini, 2021). Though not without criticism, the package, which is widely seen as a watershed moment in tech regulation, contains several provisions related to content and user rights that had previously fallen outside the scope of EU regulation (ibid.; Barczentewicz, 2021).¹⁵

Let me recap the theoretical discussion thus far. The first two sections have shown that freedom is one of the most multifaceted and contested concepts in both political theory and media studies. However, as Karppinen (2019: 72-73) rightly asserts,

[i]n the field of media and communication studies, [...], there is no shortage of practice-oriented research on media policy and regulation, media use, journalistic institutions, and technological changes, among other areas. In many of these studies, the focus is on solving practical problems, and communicative freedom as a normative ideal is taken for granted without much further problematizing.

¹⁵ The DSA and DMA form part of broader efforts to strengthen media freedoms and democracy, safeguard user rights, and combat disinformation online, as set out in the EU's *Democracy Action Plan*. See https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2250 (last accessed 25 July 2021)

This assessment is all the more accurate when it comes to EU media and communications policy. Political, social, and technological shifts have radically altered the way our communicative spaces are structured and governed, both regarding the institutional basis of the media system and the individual scope for free expression in converging media environments. Simultaneously, as the third subsection has shown, the European Union has come to assume an ever-bigger role in shaping the rules and procedures that govern these environments, an enduring primacy of national legislation notwithstanding. Yet, in-depth explorations of the status of freedom in the policies driving this process are missing. Hence, this piece of research is motivated by a desire to bring clarity to — borrowing from Mike Ananny (2018: 114) — the socio-legal fog surrounding communicative freedom and its status as a normative ideal in European Union policymaking. In this thesis, I set out to answer two questions:

- Which notions of freedom are enshrined in European Union media and communications policy?
- How have these notions changed over the past 30 years?

In the following section, I outline the research design and empirical strategy guiding the analysis.

RESEARCH DESIGN

Integrating ideational research and text analysis

This study builds on two areas of research: the study of ideas and computer-assisted text analysis. These have gained increasing currency in the political science literature in recent years (see, e.g., Finlayson, 2004; Schonhardt-Bailey, 2005; Lucas *et al.*, 2015; Anstead, 2018) but so far, especially in conjunction, found limited application in media policy research. Existing

investigations of foundational principles of media and communications policy are often deductive and abstract, with little concern for legal-textual manifestations of said concepts (see, e.g., the study of ‘public interest’ in Feintuck and Varney, 2006). They are frequently restricted to only a narrow range of analysed documents (Moe, 2010, ‘the public’) or underspecify the link between ideas and their transposition in concrete policies (Künzler, 2012, ‘liberalisation’). Yet other scholars provide mainly normative critiques of individual concepts (see Karppinen, 2007a; 2007b; 2013; 2019 for a discussion of ‘pluralism’). Simultaneously, purely qualitative approaches to text and document analysis still seem to dominate media policy research, increasing methodological diversification notwithstanding.¹⁶ I set out to mitigate these shortcomings by harnessing the potential of computer-assisted text analysis to investigate the idea(s) of freedom enshrined in European media and communications policy. Located at the intersection between quantitative and qualitative methods, these techniques lend themselves ideally to the study of ideas (Anstead, 2018: 292).

Following Gofas and Hay (2007: 4), ideas can be conceived as “provid[ing] the discursive conditions of possibility of a social or political event, behaviour or effect” (Gofas and Hay, 2007: 4). Scholars writing from a discursive institutionalist perspective have repeatedly highlighted that ideas are among the foundational building blocks of public policy (Schmidt, 2008; Béland, 2009; Carstensen and Schmidt, 2016). As outlined in the preceding chapter, freedom is undoubtedly one of the principal normative benchmarks against which the functioning of media systems — at least in Western democracies — is evaluated. Within EU media policy, its role is best captured by the term *power in ideas* (Carstensen and Schmidt, 2016: 329). That is, no single institution or actor claims exclusive ownership over the term (*power over*), nor does any single actor necessarily weaponise it to persuade others and exert control intentionally (*power through*) (ibid., 323-328). Freedom instead operates on a deeper level, constituting an ideational background structure for formulating policy that interweaves with

¹⁶ A notable exception is the comparative study by Gil-Egui, Tian, Stewart (2010), in which the authors investigate EU and US framings of ICTs using computer-assisted text analysis.

broader knowledge systems, discursive configurations, and social norms and principles, thereby shaping actors' roles and interests (ibid.: 329; Schmidt, 2008: 307).¹⁷ However, this does not mean that freedom is a stable concept. Ideas are subject to temporal variation, with different articulations and relations to other ideational elements dominating at different moments (Carstensen, 2011). Hence, a longitudinal perspective is crucial for gauging how notions of freedom underpinning EU media and communications policy change over time.

Data and methods

I rely on policy documents as objects of analysis. While the range of sources amenable to examination is undoubtedly broader than written texts, these can still be viewed as the paradigmatic artefacts of the politico-legal process, representing the 'paper trail' left behind by the various EU bodies involved in crafting media policy (Karppinen and Moe, 2012: 181). In line with the ideational approach, the collected documents are treated as continuous text rather than factual sources. The overall aim lies less in juxtaposing individual documents with the political events surrounding their publication but rather in carving out underlying values, rationales, continuities and discontinuities (ibid.: 187).

Texts were selected in a multi-step process. The first entry point was the EUR-Lex database, a searchable online register of European Union treaties, policy papers, legal texts, and other documents produced by EU institutions and bodies.¹⁸ The database was searched for all documents published between 1/1/1989 and 30/06/2021 containing at least one search term related to media and communications policy.¹⁹ Subsequently, the selection was gradually enriched with documents discussed in the literature (especially Harcourt, 2005; Terzis, 2008;

¹⁷ Of course, this is not necessarily true for other political arenas. Especially in the intergovernmental sphere, where individual states try furthering their political agenda by entrenching specific ideas of freedom (e.g. Poland, Hungary, or Slovenia), the status of freedom might more accurately be described by *power through*.

¹⁸ <https://eur-lex.europa.eu/> (last accessed 5 July 2020).

¹⁹ The precise search performed was *media OR audiovisual OR television OR film OR radio OR broadcast* OR news OR video OR journalis* OR telecommunications OR "communications policy"*.

Price *et al.*, 2013; Donders *et al.*, 2014; Oster, 2017) as well as relevant policy papers available through European Union online archives. Two partially conflicting objectives had to be reconciled in constructing the corpus; that is, the textual basis needed to be large enough to allow for computer-assisted analysis while retaining sufficient thematic coherence. After compiling a first provisional selection, documents not primarily dealing with the policy area in question were discarded.²⁰ In the next step, non-textual elements (tables, graphics etc.), as well as appendices containing numbers or country-specific industry figures, were removed to reduce noise in the data. Subsequently, the cleaned texts were uploaded to the corpus linguistic online tool *Sketch Engine*.²¹ The software automatically tokenises (segments into units), lemmatises (groups inflexions together according to their base form), and assigns part-of-speech tags (grammatical metadata) to the textual input, allowing for an examination of the material via search queries of varying complexity.

The final corpus contains 71 documents and 1,012,159 tokens, which is equivalent to 855,502 individual word forms. It mirrors roughly 30 years of European Union media and communications policy discourse, covers the milestones discussed above, and comprises green papers, white papers, discussion papers, position papers, proposals, staff working documents, and legally binding texts such as directives and regulations.²² It is essential to note that the document corpus is very heterogeneous and therefore exemplary rather than representative. Unlike text types like parliamentary speeches, where the population is known,

²⁰ Since many documents deal with overlapping policy areas, determining their relevancy for the aims pursued here was not always easy. In cases of doubt, close reading aided in sifting out texts situated on the fringes of the policy discourse, e.g., documents dealing with telecommunication equipment markets. Furthermore, the selection is limited to documents produced by one of the three main EU bodies (Commission, Council, and Parliament under co-decision procedure). Specialised bodies and advisory committees like the European Economic and Social Committee or the European Audiovisual Observatory were not taken into account in order to ensure that the selection mirrors the paper trail of those institutions vested with powers to directly shape policy outcomes.

²¹ www.sketchengine.eu (last accessed 10 August 2021)

²² Due to difficulties in obtaining high-quality machine-readable texts for the preceding years, the investigation period starts with the 1989 TWF Directive. A full list of the documents included in the final corpus is given in the appendix.

a policy discourse like the one investigated here can only be mapped in an approximative manner. Not only do some (especially more informal) documents unavoidably remain undiscovered, but relying on official sources also entails limiting the analysis to visible arenas of decision-making while leaving aside alternative fora and positions (Karppinen and Moe, 2019: 253ff).

Like any schema, the model of communicative freedom outlined above does not straightforwardly map onto politico-legal reality. The policy discourse thus needs to be approached from several angles to determine which actors, aims, and constraints are associated with freedom as the central concept. Overall, the empirical strategy encompasses both quantitative and qualitative techniques, resulting in an exploratory and iterative research process (ibid.: 256). Owing to Sketch Engine's affordances, the analysis furthermore mainly relies on grammatical search categories. First, I employ collocational analyses. Collocations are patterns of co-occurrence of words or word forms in a text, consisting of a search term (node) and a word dependent on the node (collocate). Statistically speaking, examining a word or phrase's collocational behaviour means analysing whether it appears in the vicinity of a word or phrase more frequently than can be expected by chance (Stefanowitsch, 2020: 217).²³ As linguist John Rupert Firth famously stated, "you shall know a word by the company it keeps" (Firth, 1957: 11). It is assumed here that the occurrence of certain words — their textual salience — can be taken as an indicator of their political salience (albeit an imperfect one). As freedom is the central idea of interest, I query the corpus for instantiations in nominal (*freedom*) and adjectival form (*free*). While exclusive reliance on these search terms does not allow for an investigation of further actors, aims, and constraints not co-occurring with *freedom/free*, the empirical strategy provides a conservative but consistent assessment of the ideational status of freedom in the policy field under investigation. Close readings of selected documents, facilitated by KWIC (keyword-in-context) tools, complement the collocational analyses,

²³ For a brief explanation of the statistical measures used for word association and expression weighting, see appendix.

allowing to scrutinise patterns of interest emerging from the data in more detail. Finally, because the change of specific ideational configurations can only be investigated through a longitudinal lens, the overall prevalence of certain freedoms is also analysed by segmenting the corpus into 5-year periods and calculating weighted frequencies for individual expression clusters. While segmentation might lead to a distortion of the data (e.g. due to major policy initiatives being located at the border of two time periods), such a strategy might nonetheless provide further indications of continuity and change, and help draw a comprehensive picture of the policy discourse.

RESULTS

In a first step, the corpus was queried for the most frequent adjective and noun collocates immediately preceding and following ‘freedom’. For reasons of brevity, I focus on bi- and trigrams of the type *freedom of X*, *freedom to X*, and *X freedom*^{24,25}, as these constructions have the highest informational value regarding the word’s overall semantic and textual behaviour, especially concerning the aims pursued here. Table 1 shows the most frequent of these collocates of *freedom* in the corpus and their strength of association with the node.

<i>Freedom of X</i>	<i>Freq.</i> (<i>abs.</i>)	<i>log</i> <i>Dice</i>	<i>Freedom to X</i>	<i>Freq.</i> (<i>abs.</i>)	<i>log</i> <i>Dice</i>	<i>X</i> <i>freedom</i>	<i>Freq.</i> (<i>abs.</i>)	<i>log</i> <i>Dice</i>
<i>expression</i>	117	13,2	<i>provide</i> <i>services</i>	65	12,9	<i>fund-</i> <i>amental</i>	31	11,7
<i>establishment</i>	29	10,9	<i>receive</i> <i>(information)</i>	13	10,2	<i>artistic</i>	5	10,2

²⁴ *Freedom from* occurs only once in the corpus, in the 1992 Pluralism Green Paper, in a form not related to an explicit negative freedom.

²⁵ It needs to be noted that by excluding upper-case hits not occurring at the start of a sentence, mentions of, e.g., the Centre for Media Freedom and Pluralism, which would distort the results, are not counted.

<i>reception</i>	21	10,8	<i>conduct</i> <i>(a business)</i>	10	8,7	<i>contractual</i>	7	9,9
<i>choice</i>	15	10,9	<i>choose</i>	3	7,8	<i>media</i>	28	8,9
<i>movement</i>	14	10,2	<i>broadcast</i>	3	7,2	<i>editorial</i>	3	8,8
<i>speech</i>	12	10,1	<i>produce</i> <i>(advertising)</i>	2	7,2	<i>press</i>	3	8,4
<i>press</i>	8	9,7				<i>creative</i>	3	6,8
<i>others</i>	7	9,7				<i>on-line</i>	2	6,4
<i>information</i>	13	9,2						
<i>opinion</i>	7	8,9						
<i>persons</i>	7	8,8						
<i>media</i>	6	8,3						
<i>parties</i>	5	8,0						
<i>art</i>	3	8,0						
<i>rightholders</i>	4	7,9						
<i>internal market</i>	3	7,8						
<i>contract</i>	2	7,7						

Table 1: Most frequent collocates of freedom within the structures *freedom of X*, *freedom to X*, *X freedom*, sorted by typicality. Collocations with an absolute frequency < 2 not shown

Little surprisingly, owing to the crucial significance of Article 10(1) ECHR and Article 11(1) EuChfR for the European legal architecture, freedom of expression is the most frequent and most typical collocation of the type *freedom of X* in the corpus, with 117 occurrences and a high association of 13,2. It is followed primarily by freedoms relating to broadcasting companies' market activities and signal transmission (establishment, reception²⁶, movement). As regards the former, general and unspecified references to the importance of safeguarding and/or protecting the fundamental right to freedom of expression dominate in the corpus. However, earlier documents frequently quote pluralism as a legitimate aim to justify derogation from the principle, linking its protection to competition policy and in general underlining a hands-off approach (e.g. European Commission 1992; 1994; 1999b; 2003a; 2003b). This stance is well

²⁶ *Freedom of reception* almost always co-occurs with ...*and of (re-)transmission*.

embodied in the Commission communication about the TWF Directive (European Commission, 2003a: 8):

By guaranteeing the **freedom to provide cross-border television services**, internal market policy contributes to the **freedom of expression**, fundamental for the functioning of our democratic societies. Furthermore, the removal of barriers to a **free circulation of information** has to take account of general interest objectives such as pluralism, cultural diversity, protection of copyright, consumer protection and protection of minors. Community legislation must be proportionate in respect of the objectives to be achieved. The paramount importance of **freedom of speech** in a **free society** means regulation must be kept to the minimum necessary to achieve these public interest objectives. (emphasis added)

This line of reasoning gradually recedes into the background from the late 2000s onward, as digital technologies transform the nature of audiovisual communication and, concomitantly, the scope of regulation. A closer examination of the search results reveals that both freedom of expression and media pluralism are increasingly couched in a user-focused, agency- and harms-centred language, as mirrored, e.g., in the 2020 European Council conclusion on safeguarding a free and pluralistic media system:

[...] safeguarding media pluralism also means ensuring **freedom for users**²⁷ to participate and engage with media content online without fear or risk of harassment by protecting the fundamental core values of a **free media system**, including protection of **freedom of expression**, protection from violence and hatred, protection of human dignity, protection of minors and protection of consumers. (European Council, 2020b: para. 3, emphasis added)

²⁷ This is the only instance of *freedom for* in the corpus.

As Table 1 further shows, freedom of choice also figures among the most typical collocations, with a medium association score of 10,9 and 18 overall hits, all of which refer to individual users' freedom to choose among different media services or channels. Closer scrutiny of these occurrences mostly reveals unqualified endorsements of increasing choice via technological interoperability and/or by way of increasing pluralism, similar to the examples discussed above (e.g., European Council, 1990; European Parliament and European Council, 2002a; 2002b; 2002c; 2002d). Only a 2007 staff working document (European Commission, 2007: 15) contains a brief passage that calls into question the equation of choice with greater diversity:

[...] requiring market players to use an open API and triggering a review in order to assess interoperability and **freedom of choice for users**. More generally, the possibility to have many more channels in digital has stimulated new entrants as well as leading existing players to launch new channels. Scepticism has been expressed that more channels means greater pluralism [...] The increased number of channels does not necessarily mean increased media pluralism. Many are either the result of thematic diversification of bigger channels or of large media companies. (emphasis added)

Finally, the corpus also contains several references to freedom of speech, the press²⁸, information, and opinion. However, these freedoms are less prevalent and less typical in their association with the node than those mentioned above, with logDice scores ranging from 10,1-8,9. Particularly revealing is a closer look at occurrences of freedoms of speech, as the latter only seems to become a staple of the policy discourse in the late 2010s. Apart from one mention

²⁸ In light of the fact that the EU has few powers in terms of press regulation, it is little surprising that 8 out of 11 references to press freedom (including those listed in the last column of Table 1) underline Member States' scope of discretion in applying their own rules: "[...] In this regard, this Directive should not in any way prevent Member States from applying their constitutional rules relating to freedom of the press and freedom of expression in the media." This clause is part of the AVMSD and its various updates (European Commission 2005c; European Parliament and European Council, 2007a ff). Only one document explicitly underlines the importance of press freedom, stating that disinformation "undermin[es] trust in democratic state structures and processes that are vital in guaranteeing **freedom of the press and media**." (European Council, 2020a: para. 30; emphasis added).

in the 2003 Commission communication (see quote above), and two occurrences in 2007 (European Commission, 2007: 37; quoting a legal clause in Finnish broadcasting law), the phrase most frequently features in documents after 2015 (European Commission, 2016; 2021; European Council, 2020b; European Parliament and European Council, 2018a). While complementing rather than replacing other principles like, e.g., *freedom of expression*, this trend, coupled with the phrase's prevalence in paragraphs relating to online disinformation and harms reduction, is nonetheless striking. Against the backdrop of increasing platformisation, one could tentatively interpret this as a permeation of an American legal principle into the European policy discourse.

As regards *freedom to*, the main clusters are based on stable expressions referring to legal principles, such as the *freedom to provide services* (Article 51 TFEU), here applied to audiovisual, information society, television, and communications services; the *freedom to receive information* (Article 10 ECHR); and the *freedom to conduct a business* (Article 16 EuChfR). Beyond these, there seems to be only sparse explicit reference to potential aims associated with communicative freedom (however, see the below discussion of *free to*). Due to their relative fixity as legal concepts, these freedoms generally exhibit only minor variation in the corpus and are mostly embedded in contexts outlining conditions for their restriction. However, a slight change is noticeable in the way limitations to commercial freedoms are justified. Again, early documents predominantly emphasise the necessity of achieving legal harmonisation, containing only sparse references to public interest goals, or relegating consumer protection to a question of market forces altogether, as exemplified by the following excerpt:

Consumer protection does not make it necessary to restrict freedom to provide telecommunications services since this objective can also be attained through free competition. (European Commission, 1990: para. 8; emphasis added)

More recent documents also recognise other policy objectives as constituting legitimate interferences, as mirrored, e.g., in the 2018 Directive on a European Electronic Communications Code, which stresses Member States' discretion in "limit[ing] the freedom to

provide electronic communications networks and services based on grounds of public policy, public security or public health” (European Parliament and European Council, 2018b: para. 5).

The following excerpt from the DSA also mirrors this shift:

Given that the orders in question relate to specific items of illegal content and information, [...] they do not in principle restrict those providers' **freedom to provide their services across borders**. [...] (34) In order to achieve the objectives of this Regulation, [...] it is necessary to establish a clear and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including minors and vulnerable users, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities. (European Commission 2020d, para. 34, emphasis added)

The legitimations for restricting service providers'/platforms' economic freedoms outlined in the proposal differ markedly from the provisions outlined above. Not only does the Commission impose heightened obligations for (and regulatory oversight of) intermediaries, but the passage also portends increased concern for structural conditions of free communication in the digital sphere, as evidenced by references to 'trust', 'vulnerable users', and 'empower[ing] recipients', the latter of which also hints at a more proactive and enabling stance.

When we look at the last column in Table 1, where constructions of the form *X freedom* are listed, a familiar pattern emerges. *Fundamental* ranks highest in terms of association strength and absolute occurrences, though there is little variation in the corpus beyond invocations of the necessity to protect and safeguard these freedoms. However, on lower ranks, we also find freedoms more immediately associated with individual self-expression (artistic, creative). Some of these occurrences are artefacts of the corpus composition, as most originate from

documents related to the Creative Europe Programme (European Commission, 2018a; European Parliament and European Council, 2021). However, the Commission recently also considered artistic freedom as being an integral part of the digital communication ecosystem:

The combination of the underlying trends with the COVID-19 crisis could, without a strong policy response, undermine the resilience of Europe's media sector and its democratic role. This could weaken Europe's cultural diversity and media pluralism. Europe's citizens must continue to benefit from the richness of information and entertainment provided by the media sector and count on an open democratic debate, along with **media and artistic freedom**. (European Commission, 2020b: 3; emphasis added)

Finally, the search also yielded 37 instances of media and editorial freedom in total (both in the form *X freedom* and *freedom of X*), which show moderate associations between 8,3 and 8,8 with the node word. Closer scrutiny reveals that any explicit reference to these freedoms is missing before the mid-2000s. Media freedom is first mentioned as a part of enlargement negotiations and neighbourhood policy with a Commission issues paper (European Commission, 2005b: 5). From 2005 onwards, the principle seems to become more central to the policy discourse. In later documents, the EU repeatedly links its protection to the importance of maintaining credibility vis-à-vis accession candidates (European Council, 2014: para. 15), journalistic safety and the training of media professionals (European Council, 2018: para. 40), and, not least, increasingly also disinformation and electoral integrity (e.g., European Commission, 2020b: 4; emphasis added):

This Communication complements the European Democracy Action Plan. This addresses risks to European democratic systems in the area of disinformation, integrity of elections and **media freedom** and pluralism. It includes a series of initiatives to create a safer and better environment for journalists to do their work, as well as to promote media literacy.

Lastly, it is noteworthy that *artistic* and *cultural* freedom do not appear as explicit freedoms in the analysed documents before 2018. Though there is only a weak association with the node word, the few occurrences nonetheless testify to the fact that the EU seems increasingly keen to underline the role of the creative industries for public deliberation and democratic culture:

Europe's citizens must continue to benefit from the richness of information and entertainment provided by the media sector and count on an open democratic debate, along with **media and artistic freedom**. At the same time, they should be empowered to choose from a variety of options and be able to navigate the modern news environment and take informed decisions.
(European Commission, 2020b: 3; emphasis added)

Having explored the varied manifestation of *freedom* in the corpus, I also employ collocational analyses of *free* to complement the above investigation. The results are shown in Table 2.

<i>free X</i>	<i>Freq.</i> <i>(abs.)</i>	<i>log</i> <i>Dice</i>	<i>free to X</i>	<i>Freq.</i> <i>(abs.)</i>	<i>log Dice</i>	<i>free from X</i>	<i>Freq.</i> <i>(abs.)</i>	<i>log</i> <i>Dice</i>
<i>movement</i> <i>(of</i> <i>(audiovisual)</i> <i>services,</i> <i>broadcasts,</i> <i>data)</i>	108	13,4	<i>choose</i>	10	11,8	<i>influence</i>	3	7,4
<i>circulation</i>	18	11,1	<i>require</i> <i>compliance</i>	8	10,1	<i>interference</i>	3	6,7
<i>flow</i>	12	10,6	<i>impose special</i> <i>measures</i>	3	7,4	<i>bias</i>	2	6,4
<i>television</i>	18	9,4	<i>air</i>	4	7,1			
<i>choice</i>	7	9,3						
<i>competition</i>	4	9,0						
<i>provision</i>	12	8,8						
<i>expression</i>	3	8,6						
<i>media</i>	2	7,1						
<i>market</i>	5	6,3						

Table 2: Most frequent collocates of *free* within the structures *free X*, *free to X*, *free from X*, sorted by typicality. Collocations with an absolute frequency < 2 not shown

The collocational analysis of *free* paints a similar picture to the results obtained above. Looking at the lefthand column, the free movement and circulation of broadcasting and audiovisual services (and, less frequently, goods and personal data) rank highest among the words co-occurring with *free* in both absolute numbers and association strength, followed by a combination of commercial (competition, provision, market) individual (choice, expression) freedoms, as well as terms unrelated to a particular agent (flow, television).²⁹ Although these elements vary little throughout the corpus, they still testify to the overall prominence of economic policy provisions.

²⁹ As MacCallum (1967: 314-315) already pointed out, some of the terms associated with *free* rather relate to something being rid of or without another thing or element, as is the case with *free television*, meaning *without additional payment* (e.g. in excess of license fees).

As regards objects of freedom (*free to*), different agents emerge as being free to pursue a variety of activities. The most frequent types of *X is free to choose Y* relate to the freedom of media service providers to choose their country of establishment, as laid down in Article 31 of the AVMSD (European Parliament and European Council, 2007), as well as to Member States having discretion in choosing the appropriate legal instruments for implementing the provisions laid down in the Directive (Article 65). Almost all other instances of freedoms being bestowed onto actors relate to Member States being able to impose stricter rules than those set out in the TWF and the AVMSD and to decide upon the public service remit and financing models for public broadcasters (e.g., European Commission, 1999b: 12; 2005b: 3).

Closer scrutiny of the last column seems somewhat more illuminating than the previous two, although the search yielded only three hit clusters with relatively low association with the node. Interestingly, early instances of *free from* only relate to national regulatory agencies' independence from the political sphere, highlighting their market oversight function, as stated, e.g. in the 1999 Commission Communication on Electronic Infrastructures:

The Commission continues to have a number of concerns with regard to the effectiveness of some of these arrangements, and will strengthen existing legal provisions to ensure that: the independent national regulator can undertake its **role of supervision of the market free from political interference**, without prejudice to the government's responsibility for national policy [...] (European Commission, 1999a: 58; emphasis added).

However, in the Commission proposal to the DSA, which pushes for the nomination of Digital Services Coordinators overseeing the activities of online intermediaries in Member States, the scope of freedom is kept broader, containing reference to both public and private interferences:

When carrying out their tasks and exercising their powers in accordance with this Regulation, the Digital Services Coordinators shall act with complete independence. They shall remain free from any external influence, whether direct or indirect, and

shall neither seek nor take instructions from any other public authority or any private party. (European Commission, 2020d: 68; emphasis added)

More recent documents also shift the focus on individual citizens and users, highlighting the importance of communication environments that are, through the absence of several types of impediments, conducive to public deliberation, as spelt out, e.g., by the Council in 2020:

31. safeguarding a trustworthy media system is central, as highlighted during the COVID-19 crisis, to ensure that all citizens are able to participate in the democratic debate through informed decision-making, **free from undue political influence, pressure of third party policies, manipulative interference and the effects of disinformation** (European Council 2020b, para. 31; emphasis added)

Thus far, I have treated the corpus as one homogenous collection of documents, examining the overall strength of lexical association between freedom and adjacent concepts. Qualitative readings of individual passages hint at changes in the way freedom operates in the corpus over time. However, we need a more robust measure to scrutinise ideational change over time and assess whether these intuitions are confirmed.

Figure 2 shows the weighted term frequency (tf-idf) for the most prevalent freedoms between 1989 and 2021, thematically clustered and segmented into five-year periods (the last period only spans three years). For reasons of clarity, I limit the analysis to the most significant freedoms in the corpus and group them according to semantic rather than grammatical criteria.

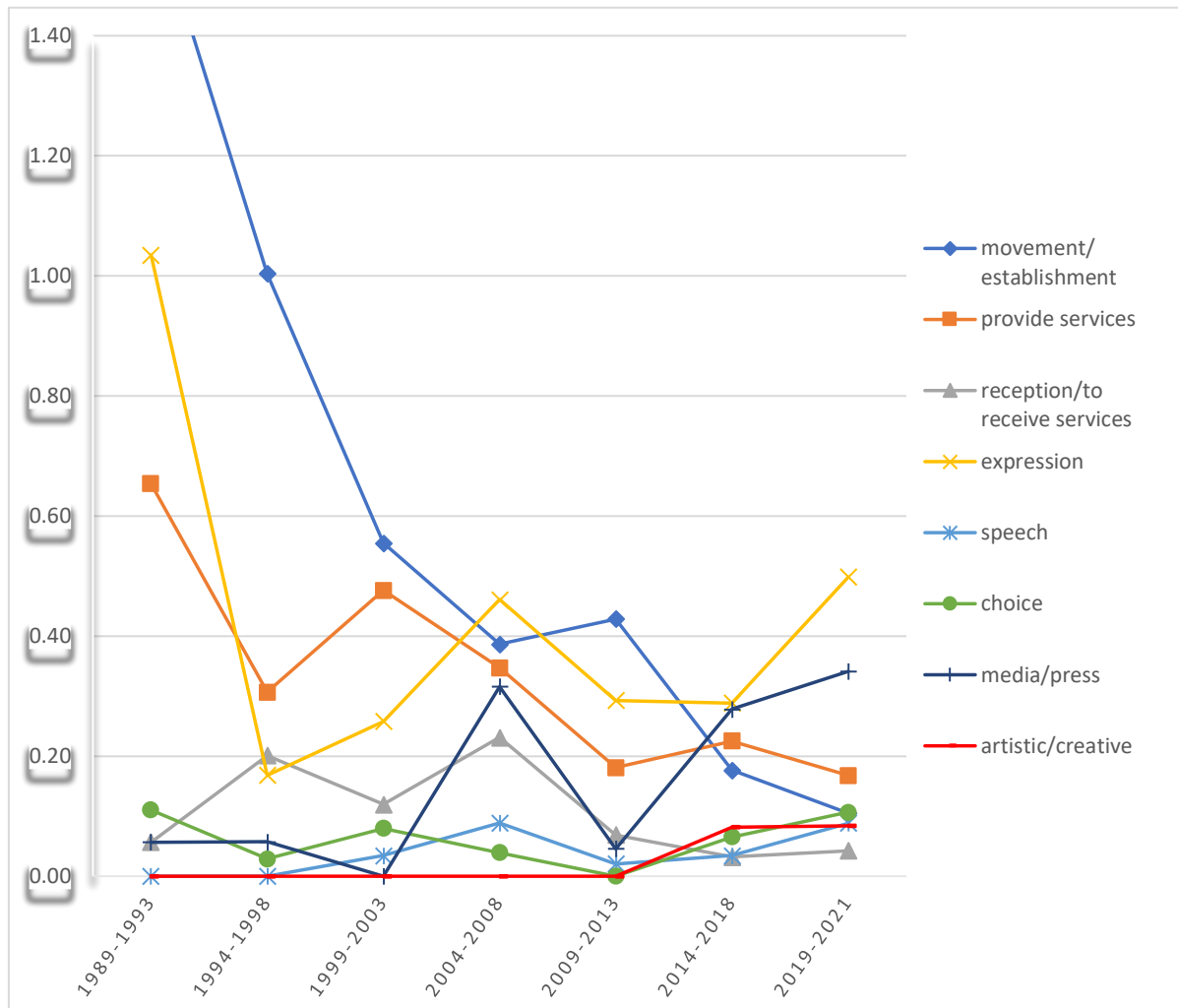


Figure 2: Weighted frequency of the most prevalent freedoms, 1989-2021, thematically clustered (movement/establishment = free movement/establishment + freedom of movement/establishment, expression = free expression + freedom of expression etc.)

The depicted trend broadly confirms the collocational and qualitative analyses. We see a steady decrease in the importance of economic freedoms in the documents under investigation. The freedom of movement and establishment and the freedom to provide services are among the cornerstones of the European Single Market. Until the mid-2000s, these motives dominate the EU's media policy output, together with freedom of expression. While the latter — little surprisingly — remains a guiding principle throughout the investigation

period, more commercial rationales underpinning the policymaking process seem to lose their appeal after 2008. Instead, the European Union recognises freedom of the media (and, to a lesser extent, of the press) as objectives worthy in their own right. However, as outlined above, this finding can also be attributed to the eastward enlargement and the EU's efforts to bring candidates into line. In conjunction with freedom of expression, press and media freedoms are most discriminatory for the corpus from 2014 onward. Furthermore, as discussed above, artistic and creative freedoms emerged in the policy discourse in 2018, though they do not assume a very prominent role when measured in total occurrences. The tf-idf values for freedom of speech and choice make it hard to discern any significant trend over time, although freedom of speech exhibits a moderate upward trend since 2009. Not least, there seems to be a slight change in the distinctiveness of freedom of reception as time progresses. This language change is possibly attributable to the gradual transition from a broadcast-based to an internet-based media environment and the concomitant shift in EU legislative and regulatory activity, with linear services losing their dominant role.

DISCUSSION

This piece of research aimed to address two related questions: Which notions of freedom are enshrined in EU media and communications policy, and how did these notions change over the past 30 years? By integrating quantitative and qualitative analysis, I showed that while freedom of expression is the most prevalent freedom in the corpus in absolute terms, commercial freedoms most distinctively define the policy discourse over a prolonged period. This finding aligns with the general thrust towards *laissez-faire* that characterised the EU's approach to the media sector from the 1980s onwards, as well as with the 'country of origin' and 'mutual recognition' principles underlying the TWF and AVMSD Directives (Nieminen, 2010: 17; Pauwels and Donders, 2011: 528). In this perspective, liberty primarily amounts to the freedom of broadcasters and telecommunications operators to provide services in the

internal market, with little explicit reference to potential restrictions to their activities beyond an occasional nod to public service obligations. However, the empirical analysis also demonstrated that in more recent years, the grammar of freedom echoes a change in the EU's stance, signalling an increasing orientation towards democratic ideals, informed debate, and implying a recognition of the role that media institutions and communication infrastructures play for culture, self-expression, and political participation. While these developments do not necessarily portend a complete departure from the dominant logic of consumer sovereignty (Karppinen, 2007: 18) and a return to post-war social responsibility thinking, they nonetheless signal a policy shift. Against the backdrop of an eroding media ecosystem, disinformation, electoral interference, and excessive platform power, EU governing institutions seem to have realised the limitations of an exclusively market-driven approach to free communication and embraced notions of freedom in their policies that carry more enabling and interventionist connotations.

However, we need to be mindful of the limitations of the adopted approach. Firstly, the generalisability of the results is limited, as the corpus contains heterogeneous documents that were chosen on a selective basis. Secondly, the overall technocratic language and repetition of legal principles across documents exposed a potential shortcoming of a purely collocation-based approach to media policy analysis. While the empirical strategy carries the advantage that a narrow interpretation of freedom (limited to its nominal and adjectival form) restricts the investigation to its primary linguistic manifestations and minimises the risk of making arbitrary decisions about what does and does not constitute freedom, there is only limited variation in the data, at least with regards to the immediate textual environment of *freedom/free*. This fact highlights the necessity to complement quantitative with qualitative techniques when dealing with policy documents like the ones studied here. Close-reading of paragraphs or passages containing the target word provides crucial contextual information allowing the researcher to arrive at a more comprehensive understanding of the policy discourse. Furthermore, while the technique is generally well-suited for uncovering actors and aims

within the corpus (as these often appear in the form *X freedom/free X/freedom to X/free to X*), restrictions or impediments only sparsely co-occur with the node words, making their discovery largely contingent on close reading. In a more extensive project, the search terms could be broadened by inductively identifying a range of expressions for each component of the model of free communication sketched in the theoretical section. These words could then be applied to the corpus and, with the help of additional human researchers and coding guidelines, allow for a more fine-grained examination of the policy discourse and an in-depth assessment of the relative prevalence of different actors, aims and constraints associated with communicative freedom.

CONCLUSION

In *Two concepts of liberty*, Isaiah Berlin famously wrote: “When ideas are neglected by those who ought to attend to them - that is to say, those who have been trained to think critically about ideas - they sometimes acquire an unchecked momentum and an irresistible power” (Berlin, 1969: 119). Through engagement with and investigation of the idea at the heart of his contemplations, I made three interconnected points in this thesis. On a theoretical level, incorporating arguments from political philosophy and more recent media and communications scholarship, I proposed an expansion of the dichotomous conception of liberty and outlined a triadic model of communicative freedom. On a methodological level, I explored the potential of computer-assisted text analysis for studying policy documents. Empirically, I showed that ideas of communicative freedom mirror larger shifts in the EU’s approach to media regulation and the dynamics of European integration more broadly.

Future studies at the intersection between text analysis and ideational research could build on the insights generated here in several ways. One potential avenue, as outlined above, is refining the textual indicators of freedom and applying related search terms to a larger, multi-

million token corpus, which could produce more robust results. Furthermore, the methods employed in this thesis lend themselves ideally to comparative research. Especially a closer look at the interinstitutional dynamic between the European Parliament and the Commission and the use of ideas like *freedom* in their respective policy discourses could prove rewarding and further our understanding of how political actors exercise power *through* ideas. Techniques like correspondence analysis, which facilitate the visualisation of actor positions in ideological spaces, could be a valuable addition to the collocation-based approach. However, against the backdrop of persisting national differences in legal and regulatory traditions, these tools could also aid in unearthing diverging rationales and motives that guide policymaking across different European countries, or across the Atlantic. In any case, given the handful of EU member states continuously confronted by Brussels over their stance on media freedom on the one hand and the seemingly widening gap between the US and European approaches to media and tech regulation on the other, there is plenty of material to study.

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European Council (1996) Council Resolution 96/C 376/01 of 21 November 1996 on new policy-priorities regarding the information society

European Council (2008) Council Conclusion 2008/C 140/08 of 22 May 2008 on a European approach to media literacy in the digital environment

European Council (2009) Council Conclusion 2009/C 301/09 of 11 December 2009 on media literacy in the digital environment

European Council (2014) Conclusions of the Council and of the Representatives of the Governments of the Member States 2014/C 32/04 of 4 February 2014, meeting within the Council, on media freedom and pluralism in the digital environment

European Council (2018) Council conclusions of 19 December 2018 on the strengthening of European content in the digital economy (2018/C 457/02)

European Council (2020a) Council conclusions of 9 June 2020 on media literacy in an ever-changing world (2020/C 193/06)

European Council (2020b) Council conclusions of 12 December 2020 safeguarding a free and pluralistic media system (2020/C 422/08)

European Parliament and European Council (1997a) Directive 97/13/EC of 10 April 1997 on a common framework for general authorizations and individual licences in the field of telecommunications services

European Parliament and European Council (1997b) Directive 97/36/EC of 30 June 1997 amending Council Directive 89/ 552/ EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

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European Parliament and European Council (2000) Directive 2000/31/EC of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce)

European Parliament and European Council (2001) Directive 2001/29/EC of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society

European Parliament and European Council (2002a) Directive 2002/19/EC of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive)

European Parliament and European Council (2002b) Directive 2002/20/EC of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)

European Parliament and European Council (2002c) Directive 2002/21/EC of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)

European Parliament and European Council (2002d) Directive 2002/22/EC of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)

European Parliament and European Council (2002e) Decision 676/2002/EC of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)

European Parliament and European Council (2002f) Directive 2002/58/EC of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)

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European Parliament and European Council (2006) Decision 1718/2006/EC of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007)

European Parliament and European Council (2007) Directive 2007/65/EC of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

European Parliament and European Council (2009a) Directive 2009/136/EC of 25 November 2009 amending Directives 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

European Parliament and European Council (2009b) Directive 2009/140/EC of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services

European Parliament and European Council (2010) Directive 2010/13/EU of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

European Parliament and European Council (2012) Decision 243/2012/EU of 14 March 2012 establishing a multiannual radio spectrum policy programme

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European Parliament and European Council (2013) Regulation 1295/2013/EU of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/E

European Parliament and European Council (2018a) Directive (EU) 2018/1808 of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities

European Parliament and European Council (2018b) Directive (EU) 2018/1972 of 11 December 2018 establishing the European Electronic Communications Code

European Parliament and European Council (2019) Directive (EU) 2019/789 of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC

European Parliament and European Council (2021) Regulation (EU) 2021/818 of 20 May 2021 establishing the Creative Europe Programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013

APPENDIX: NOTE ON STATISTICAL MEASURES

To measure collocational strength, I use logDice, which equals

$$\text{logDice} = 14 + \log_2 \frac{2f_{xy}}{f_x + f_y}, \text{ where}$$

f_x = number of occurrences of word x

f_y = number of occurrences of word y

f_{xy} = number of co-occurrences of x and y.

The measure ranges from 0 (less than one co-occurrence of XY per 16,000 X or 16,000 Y) to 14 (all occurrences of X co-occur with Y). A one-point increase means that two words collocate twice as often, an increase by seven points indicates a collocation that is 100 times more frequent (Rychlý, 2008). It needs to be noted that Sketch Engine cannot systematically detect collocations in which two terms of interest are embedded within a larger coordinating phrase, which means that, e.g., *information* within collocations of the type *freedom of expression and information* is not counted as a collocate of freedom as the node word. Such occurrences can only be detected via manual search.

To gauge the change in prevalence of different freedoms, the relative frequency of expression clusters is weighted for each 5-year corpus segment. To this end, I use *tf-idf*, which assigns a weight to each term based on how significant it is to a corpus. *Tf-idf* is the product of two terms, normalised term frequency and inverse document frequency:

$$tf\text{-}idf = tf \times idf, \text{ where}$$

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$$\text{tf} = \frac{\text{frequency of term } t \text{ in document } d}{\text{total number of words in document } d}$$

$$\text{idf} = \ln \left(\frac{\text{total number of documents } N}{\text{number of documents } d \text{ containing term } t} \right)$$

In general, tf-idf is highest when a term occurs many times within few documents, lower when it occurs fewer times in one document or occurs in many documents, and lowest when it appears in close to all documents. In short, tf-idf is an indicator of the discriminating power of a specific expression (Manning *et al.*, 2009: 117ff). While absolute tf-idf values vary according to context, their comparison allows assessing how the distinctiveness of individual expressions in the corpus changes relative to others.

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