

# European Journalism Centre (online)

## Magazine

### [German media stakeholders discuss regulations for commercial TV in an Internet era](#)

By Eric Karstens

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It rarely happens anymore that somebody suggests climate change could be a good thing. Yet at the [annual conference](#) of the [German Association of State Media Authorities](#) in Berlin earlier this month, it happened a lot, and for a reason. Deep rifts divided all players involved: commercial broadcasters are at odds with the regulatory authorities, regulatory authorities and state (*Länder*) administrations do not agree. In turn, the *Länder* oppose federal government initiatives. Accordingly, several speakers called for a “new deal” to improve media regulation.

This, however, did not appear likely to be cut in the near future.

In Germany, media fall under the jurisdiction of the 16 states that form the Federal Republic. The *Länder* parliaments enact pertinent laws, but actual media oversight is in the hands of independent regulatory bodies at the state level.

Telecommunications

infrastructures and anti-trust precautions on the other hand are a federal responsibility. At the Berlin event, all of the above groups — plus private broadcasting lobbyists — clashed over a recent proposal by the media authorities to [micro-manage news in commercial television](#), which I addressed at length a few days ago.

The day’s opener was a keynote by [Viktor Mayer-Schönberger](#), appropriately titled Habermas 2.0. Philosopher [Jürgen Habermas](#) is the chief theorist of the concept of the public sphere, and Mayer-Schönberger brilliantly reviewed this now-classic notion in the light of



current Internet trends. In the manner of [Andrew Keen](#), he expressed scepticism about the benefits of the social web, which in his view “provides echo chambers in which one primarily hears the reverberations of one’s own beliefs.”

Mayer-Schönberger stressed that the quantitative variety of online publication opportunities does not necessarily enhance pluralism, and that at the same time the public sphere becomes ever more fragmented.

He was particularly critical of the [wisdom of crowds](#). Getting many people to create, for instance, an encyclopedia, he said, was not achieving a better overall result than charging conventional experts with the task. Even though some people contend that Wikipedia today is actually better than [Encyclopedia Britannica](#) and the like, he may be right. But what Mayer-Schönberger overlooks is the fact that society now in many cases has ceased being vitally dependent on experts, but can come up with some answers and solutions on its own in a collaborative manner.



The same holds true for the relationship between conventional and citizen journalism. Sure, the oligopoly of a few major newspaper publishers and broadcasters is in the process of being replaced with a new oligopoly of only a handful opinion-forming platforms such as prominent blogs or aggregators like Google. Mayer-Schönberger presented figures suggesting that the [Long Tail](#) effect applies to blogs as well: A relatively small selection of outlets attract the largest audiences, while there are millions of sources nobody notices or which do not have much substance to begin with anyway. From the public sphere perspective, one finite set of information intermediaries is merely replaced by another.

However, there still remain at least two fundamental differences to the old media landscape. First, blogs or platforms can fall out of their audience’s favour at the blink of an eye if they do not manage to capture their reader’s interests; a competitor or newcomer usually replaces them immediately. Second, everybody can pretty easily start an online publication now and try their luck at gaining an audience. In the old world, that was next to impossible because you needed huge amounts of cash to buy a printing press, set up a distribution structure, plaster advertising all over the country, and so on. This makes at least for a much more flexible public sphere in which civil society can more easily assert its issues.

As a matter of fact, Mayer-Schönberger’s conclusions converged pretty much with what was [discussed at the European Journalism Centre](#) last fall. He coined it into the slogan: “Education is the new regulation,” meaning that a high level of media literacy is an indispensable prerequisite for society as a whole to benefit from the new media environment. Seeing that the Internet is conducive to all kinds of evasion tactics, he advised against trying to regulate private media companies to this end. Ironically for an event that focused on

commercial television, he suggested instead that public service media play a more important role in the information ecosystem.

With that, scholarly debates all but ended, and the stage was set for stakeholder altercations. Annette Kümmel, head of media policy at [ProSiebenSAT.1](#), chided what she felt was regulatory indetermination: A few years ago, her company was barred from merging with a major German publishing house on the grounds that it already held a lot of opinion-forming influence which must not be further increased. Yet now, as the TV group actually volunteered to reduce opinion-forming programmes such as news, regulators were inexplicably dissatisfied as well, remarked Kümmel.

It was Kümmel's counterpart at [RTL Germany](#), Tobias Schmid, though, who dominated the scene with a mixture of snide remarks and concrete suggestions, gladly picking up the opportunity that most of the regulators' discontent was directed at RTL Group's main competitor ProSiebenSAT.1. The media authorities, he said, were "declaring bankruptcy" in trying to "desperately regulate the status quo" and rendering what used to be the "broadcast privilege" into a burden.

Schmid once again made a case for replacing regulation with commercial incentives. In particular, he said he desired preferential treatment for private broadcasters in [navigators and electronic programme guides](#), even less restrictions to advertising, and public subsidies for loss-making regional news programmes. He boiled it down to demand for "unequal, yet not unjust treatment" for the different media categories, which effectively means that he wants to have the TV sector unleashed from regulation while still having it treated preferentially over online. In exchange, he would not mind keeping a few news and information programmes on the air.

The ultimate threat was however introduced – albeit jokingly – to the debate by Matthias Knothe, head of media policy in the government of the state of Schleswig-Holstein. He said he was relieved that media authorities so far had not set up yet another joint commission, in this case one charged with supervising information programmes on television. The *Länder*, he added, had no intention of writing more specific news and information rules into broadcasting law because they felt this would exercise undue influence on the content autonomy and press freedom of the media.

So after all, the media authorities' demands might turn out just a flash in the pan.



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