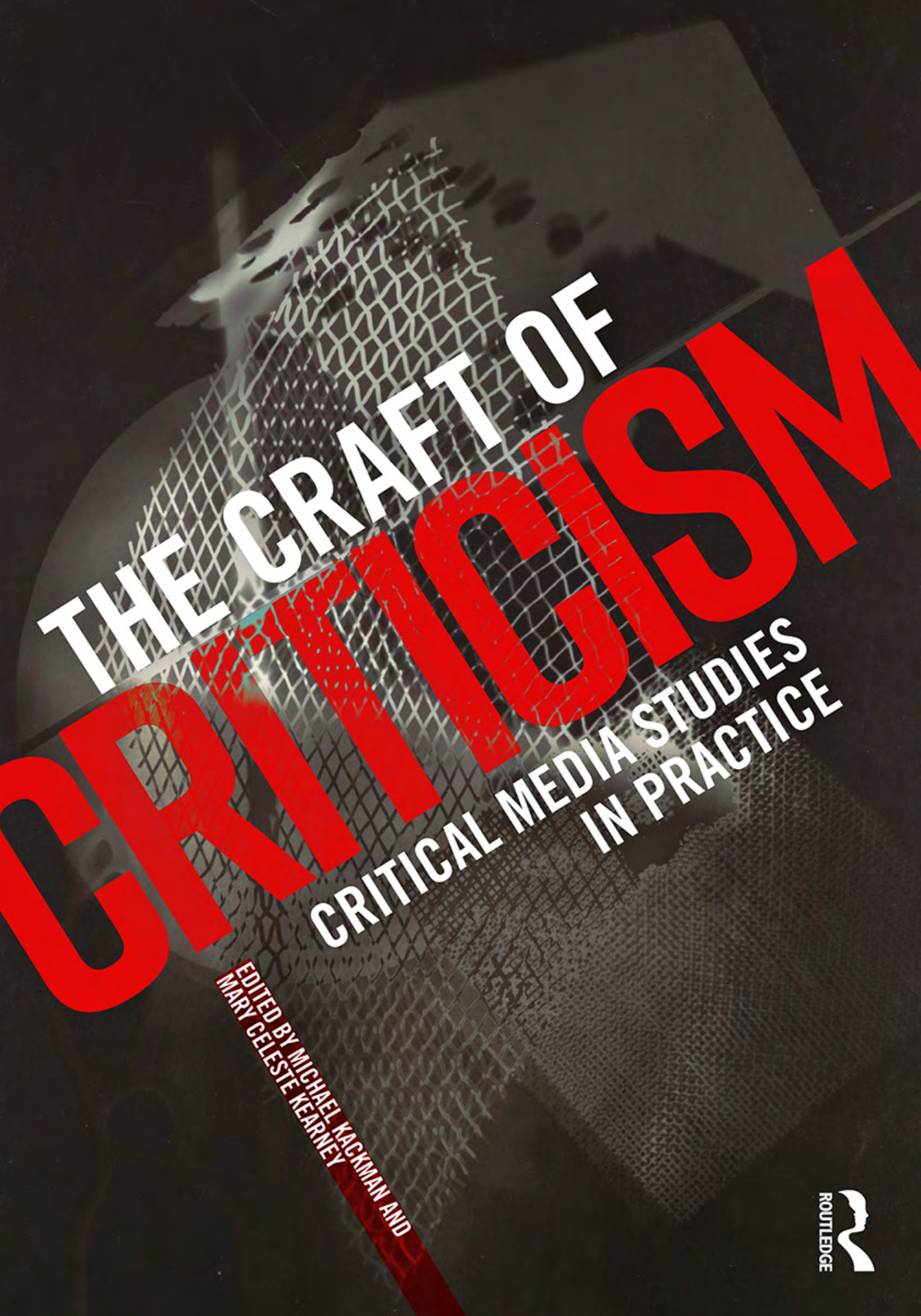
THE CRAFT OF
CRITICISM
CRITICAL MEDIA STUDIES
IN PRACTICE
EDITED BY MICHAEL KACKMAN AND
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ROUTLEDGE

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11.
MEDIA POLICY
Bill Kirkpatrick

Remember watching television as a kid? Depending on where and when you grew up, you might have spent your Saturday mornings transfixed by loud and colorful cartoons, possibly featuring Hasbro's Transformers or My Little Pony (which you could then pester your parents to buy for you). Or maybe you watched "educational" children's television—*Sesame Street* (NET/PBS/HBO, 1969–present) or *Maya y Miguel* (PBS, 2004–07)—with no ads interrupting the math and life lessons.

What you probably *don't* remember are the policy battles over these shows: Parents' groups condemning excessive violence in cartoons, cereal manufacturers claiming their products (and their commercials aimed at kids) are harmless, and grandstanding politicians vowing to protect the youth.[1]

Children may be blissfully unaware of the regulations, governmental agencies, industry groups, and other forces shaping the media; they just like watching their shows. As media scholars, however, we need to broadly understand—and often closely examine—the legal and regulatory processes that form the backdrop, or even the foreground, of media industries, texts, and practices. In this chapter, we'll look closely at what media policy is, how to study it "critically," and how these analyses can enliven our understanding of media and society.

Overview

What is Media Policy?

Media policy, broadly, is the formal and informal rules and regulations that shape or influence the production, distribution, and consumption of media. At its most basic, **media policy studies** seeks to understand those rules, how they came about, how they have changed, why they matter, and perhaps what they *should* be.

Rules about media are everywhere, but most people think first about state or "official" media policy: the actions of governments and bureaucracies, such as the U.S. Congress and Federal Communications Commission (FCC), or the *Conseil Supérieur de l'Audiovisuel* in France. Lawmakers pass laws, regulators implement those laws, support staff provide technical advice, and so on. This official policy realm also includes the courts, who frequently make policy through their rulings and interpretations. Different countries pursue a wide range of policies, from China's censorship of the Internet to Canada's requirement that a percentage of their media must be created by Canadians.

Media policy encompasses much more than government activities, however. Media industries themselves enact policy, most notably through voluntary internal or industry-wide policies, called **self-regulation**. For example, television networks have internal censors who limit what the network may say and show, which is usually much more restrictive than what the law would allow.

In most countries, the policy arena also includes **citizens**, who play a role in media policy by writing letters to officials, working through organized activist groups to pressure politicians, and so on. One famous example of citizen action leading to policy change is 2004's "Nipplegate," when singer Janet Jackson's breast was briefly exposed during an American football broadcast. After conservative groups and half a million citizens complained to the FCC, the Commission raised fines for indecency on TV by over 1000 percent.

These three actors—the state, media industries, and citizens—together are the object of most media policy scholarship. But we can think of many more "media policymakers," such as local co-ops that build their own broadband infrastructure, school boards that have to decide whether teachers may "friend" students on Facebook, or even parents restricting the media consumption of their kids: "No TV before you've finished your homework" is, in essence, a highly localized media policy. Even more broadly, the media are influenced by environmental policy, anti-discrimination law, election law, and more. For example, laws that weaken the power of unions are normally thought of as labor policy, not media policy, yet in a highly unionized industry like film and television, such laws affect media content in profound ways.

Given this breadth, it is clear that media policy affects *you* every day, whether you are aware of it or not. Here are a few common examples (some specific to the United States, but even if you live elsewhere you'll get the idea):

- restricting movies based on age;
- deciding who gets to broadcast on which television channel;
- ensuring that every house is connected to the national telephone system;
- regulating the sexual content of books, films, magazines, and television shows;
- ensuring that radio-controlled drones don't interfere with the radios of airliners flying overhead;
- regulating speech in various ways: banning cigarette advertising, protecting individuals from libel, requiring pharmaceutical ads to mention possible side-effects, and more.

In short, where there are media (i.e., everywhere), there are rules and regulations governing those media, which means there are many potential objects of study for media policy scholars.

Studying Media Policy Critically

This chapter adopts the perspective suggested in this book's title, in the word "criticism": It's one thing to study media policy; it's another to study it *critically*.

Until recently, the tendency has been to analyze policymaking processes "on their own terms," i.e., as fairly straightforward problems of engineering or politics. In this traditional perspective, the rules of the game are set, the key players are known, and the goal is to figure out how to solve something that has been defined as a "problem." The research question is usually, "What is the best policy?" (or, in historical analyses, "What would have been the best policy?"). The approach is rooted in positivist social science and is often heavily quantitative, measuring the costs and benefits of various options.[2] In this view, the procedures for regulating media appear fairly straightforward and technical: the issues and players are usually clearly defined, there are established procedures for making decisions, and outcomes can be measured by things like "number of channels a television viewer receives" or "box-office revenues for domestically produced films." As policy scholar Des Freedman put it, "Policy, according to this perspective, is the domain of small thoughts, bureaucratic tidiness and administrative effectiveness."[3]

To study media policy *critically,* however, is to analyze those same processes not on their own terms but as specialized microcosms of culture and society. Critical scholars understand that policymaking is political in the narrow sense, but they are also interested in policymaking as capital-P Political, revealing larger systems of power and meaning. They do not take the tidiness of decision-making procedures as a given, nor do they treat the terms and assumptions of the main actors as straightforward and transparent. The research question is not simply, "What is the best policy to solve this problem?" but also, "What does this policy dispute tell us about society and how it works?"

How might traditional and critical scholars approach the same policy issue differently? Consider the routine case of the FCC awarding a radio station license. A simplified version of the process goes something like this: The FCC determines that there is space on the dial in a given area and calculates the maximum power of the transmitter to avoid interference with other stations. Would-be broadcasters put together applications detailing the kind of content they would broadcast, how they would serve the local community, how they would finance the station, etc. The FCC awards the license to the applicant who seems to have the best combination of technical competence, public service plan, and financial wherewithal.[4] If conflicts arise, they will usually be settled by engineers or the courts; if the broadcaster does a bad job, that will usually be settled by consumers, who can "vote" by switching stations.

That description of station licensing is relatively straightforward, and, although policy analysts might suggest improvements to the process, the key terms

and assumptions of the main actors are taken at face value. The primary research question is, *Who should get the license?*, or perhaps, *Is this how station licenses should be allocated?* In Freedman's terms, such an analysis involves small thoughts (i.e., which would-be broadcaster put together the best application?), bureaucratic tidiness (the FCC only needs to weigh the various factors and make a decision), and administrative effectiveness (we have institutions and procedures in place for solving problems and settling disputes).

A critical perspective would approach station licensing very differently. For example, in his book *Selling the Air*, Thomas Streeter adopts a critical perspective when he asks not, how should licenses be allocated? but rather, what led to the idea of a station license in the first place? How was the electromagnetic spectrum turned into "property" for the government to allocate to private interests? His object of study is not, "Who should get the license?" but rather, "To whom is the concept of licensing *useful*?" and, "What are the social and cultural effects of imagining radio in these terms?" In other words, he steps outside of the licensing process itself to question the very terms and assumptions that underlie it, showing how licensing enables governments to control radio speech by choosing the speaker. By turning the airwaves into property, he argues, the state more easily collaborated with private corporations to manage the powerful medium of broadcasting.[5]

We could raise other critical questions about licensing, but the point is this: to study policy critically is to question the terms and assumptions that inform policymaking in the first place, using policy to investigate larger social and cultural questions. This approach allows us to bring a wide range of theories and perspectives into dialog with media policy, such as critical race theory, feminism, political economy, or disability studies. Viewed critically, policy becomes not a technocratic exercise in problem solving but a lens through which to explore countless questions about media, power, and society.

Intellectual History of the Concept

Governments have always understood—and sought to harness—the power of communications. In the third century BCE, for example, the *Arthashastra* laid out rules for how Indian leaders should communicate with their subjects—a kind of ancient media policy. And as long as there has been media policy, there have been media policy analysts; Machiavelli's *The Prince* (1532) is a study of, among other things, how monarchs should structure and control the tools of communication at their disposal.

As commonly understood in media studies, however, policy studies are a relatively recent phenomenon, rising with the mass media and initially emerging in the social sciences. An important early moment was the Payne Fund studies (1929–1932), which examined the possible psychological and behavioral effects of movies on children. Although the studies themselves were methodologically flawed, they were used to shape one of the more important policies in media history: the Hollywood Production Code, an example of industry self-regulation that dictated what the U.S. movie studios could say and show in their films.

The example of station licensing above illustrated some of the differences between traditional and critical approaches to media policy studies, but we can unpack that distinction further. What kinds of approaches are we lumping under "traditional"? What key theories and methods inform a "critical" approach?

Two main frameworks in **traditional policy studies** continue to be widely pursued today: the technological approach and the liberal-pluralist approach.

The Technological Approach

A **technological approach** focuses on how media devices work, whereby "the best policy" is seen as emerging organically and neutrally from a rational consideration of the properties of the technologies themselves. This approach emphasizes the analyses of engineers who understand the science behind the devices; it is technocratic, privileging policymaking by technical experts. For example, AM radio waves have certain properties determined by the laws of physics. They travel much farther at night, for instance, and therefore the "best" policy is to limit the transmitter power of most stations after sunset in order to minimize interference. Since skywave propagation (as it's called) is a scientific fact, one could argue that the technology itself is, in a sense, telling us what policies to implement. The technological approach is undeniably useful. If you like turning on your car radio and selecting from a number of clear, interference-free stations, thank a technocrat.

A critical policy scholar would respond, however, that one can't go very far down this road without running into politics. Take cell phones, for example.

Phone companies point out that the electromagnetic spectrum is a limited resource: only so many frequencies are available, and current cellular data networks are nearing capacity. This technological limitation seems to tell us the "best" policy: if we're running out of supply, then we should take action to curb demand. In the United States, the FCC has done exactly that by exempting cellular data carriers from certain regulations about network management and allowing them to limit the speeds at which customers get data. Presto! Thanks to these policies, cell carriers can deliberately slow down your connection to the Internet so their networks don't get overloaded, thereby solving the technological problem of spectrum scarcity.

The catch is this: spectrum scarcity is not just a technological question but also a political and economic one. For years, phone companies "squatted" on spectrum that the government had allocated to them but they chose not to use—it's more profitable to charge higher rates under conditions of scarcity than to invest in building out more capacity. No wonder one FCC insider wrote of "a big push to manufacture a spectrum crisis."[6] Furthermore, even if spectrum really is scarce, how did that spectrum get allocated in the first place? It is clearly a political decision whether to assign frequencies for civilian or military uses, whether to give those civilian frequencies to cell carriers or television broadcasters, and so on.

Regardless of where "spectrum scarcity" stands by the time you read this, the larger lesson is clear: We need engineers to help us understand technology, but we also need tools for thinking critically about what to do with that technology.

The Liberal-Pluralist Approach

Another common traditional approach to policy studies, at least in democratic societies, emphasizes the operations of **liberal pluralism**, the idea that the "best" policy emerges from the fair and legitimate processes of democratic self-governance.[7] In this view, a range of policy actors, coalitions, and interests compete within a policymaking arena that none of them completely controls. Large companies from one sector struggle against companies from another sector, public-interest groups advocate for their preferred policies, ordinary citizens call their congressperson, and so on. The goal of policy analysis is to identify possible points of consensus, overlap, or compromise—or, failing that, select the most persuasive argument.

Consider, for example, sexual content on television. A liberal-pluralist approach would tend to frame this as a problem of balancing competing interests: broadcasters' free-speech rights, the state's enforcement of public-interest obligations, citizens' tolerance of sexual content as expressed through complaints, and so on. We could weigh all these interests and come up with a range of possible policies: ban "indecent" content altogether; restrict it to certain times of the day; leave it unrestricted but require an on-screen warning; etc. In other words, the analyst seeks the optimal outcome by balancing competing interests within the existing policymaking framework.

This approach has innate appeal and common sense behind it, and it is how we've been taught that democracy works. The problem for the media scholar is that, as a way of studying policy, the liberal-pluralist framework has some gaps. First, it can't adequately account for cultures of policymaking, i.e., the ways in which policymakers decide whose voices count, grant access to some players and not others, and bring their own perspectives and interests into their decision-making. Scholars are not blind to these dynamics, of course, and various social-science approaches, such as **agenda-setting theory** (the study of how certain issues and perspectives become salient or dominant and how certain groups are able to get their interests on the agenda), have emerged to explain how policymaking can deviate from a fair and rational ideal. However, these approaches tend to understate the multiple forms of economic and social power that restrict access, limit what counts as "reasoned" debate, and produce outcomes that almost never seriously destabilize existing centers of power in society.

Second, a liberal-pluralist approach to media policy does not provide the scholar with tools for situating specific policies within larger ideological and cultural systems. By looking primarily at the established procedures of democratic decision-making, it can all too easily reinforce existing power relations and dominant perspectives in a society, rather than questioning the role of media policy in those power relations.[8]

The traditional approaches described above have at least one important advantage over critical studies, however: because they tend to analyze policy within the terms and assumptions of existing political, economic, and social frameworks, they are more likely to be considered "relevant" to actual policymaking. Of the clash between "**policy-relevant**" and critical scholarship, Ian Hunter wrote, "To travel

to [the official policy sphere] is to make a sobering discovery: They are already replete with their own intellectuals. And they just look up and say, 'Well, what exactly is it that you can do for us?'"[9] The answer these busy bureaucrats want to hear is usually *not,* "Well, we can deconstruct your paradigms and disempower your legitimated stakeholders. How does that sound?"

Interpretative Policy Analysis

In contrast to the traditional approaches above, critical approaches seek to understand how policymaking fits into larger systems of culture and power. There are several such approaches, and they are largely mutually compatible.

Interpretative policy analysis (IPA) is a recent move among social-science policy scholars to introduce qualitative research into policy analyses, which as we have seen are often preoccupied with quantitative and technical data. IPA is concerned, first and foremost, with the ideological and cultural dimensions of the policymaking process itself: How do policymakers decide whom to listen to and whom to ignore? How do they define their terms? How do they decide which factors are most important? Compared to the technological and liberal-pluralist approaches, IPA is better equipped to analyze the values, meanings, and systems of power that influence how policymakers go about their work.

Imagine, for example, a local school board considering whether to censor the Internet on school computers. A traditional policy approach would tend to analyze legal questions, the costs of the filtering software, the risks of getting sued if the school board doesn't act, and so on. The range of "legitimate" voices would be clear: attorneys, accountants, technologists, and parents. Unless there is strong public outcry against censorship (rare), such analyses are going to end in a highly predictable policy decision, which is why almost every U.S. public school censors the Internet.

In contrast, an IPA analysis would question the inclusions, exclusions, and assumptions in this process, asking school board members to consider how their pre-existing beliefs and the choice of whom to consult affect the outcome of their deliberations. Chances are the board members won't think twice about filtering out pornography: the belief that children are harmed by explicit sexual imagery is currently so widespread as to be virtually unquestionable. But how much thought will they give to the non-pornographic sexual content that might get filtered out at the same time, such as information about birth control and LGBT issues, not to mention vast swathes of art history? They will certainly talk to lawyers and the vendors of filtering software, but will they consult with youth counselors, health workers, or experts on sexual abuse? Will they even think to ask students what they think, or are the students simply persons to be spoken for? Importantly, will they question their own class, racial, and sexual privilege, which frequently blinds policymakers to the impacts of their decisions on marginalized groups? These are the kinds of questions that a scholar steeped in IPA might ask.

As Richard Freeman points out, IPA is often intensely ethnographic, meaning the scholar closely observes what those involved say and do, then tries to alert policymakers to how their biases and assumptions are shaping the process. As Freeman describes the distinction between traditional approaches and IPA:

> [IPA] is a source of reflection rather than direction or prescription. Its contribution to policy making lies in helping actors (policy makers) "learn what they do." . . . Its questions are not "What should we do?" but "What are we doing?", "How do we do what we do?" and perhaps "How do we work out what we should be doing?"[10]

Interpretative policy analysis has counterparts in other fields, such as **legal pluralism** and **science and technology studies** (see "Further Reading"). All of these approaches share a fundamental understanding that even the most rational and dispassionate of human activities are inseparable from larger political processes of meaning-making and cultural power.

Political Economy

Another important concept in critical approaches to media policy is **political economy**. Political economy is covered at length in Chapter 10 of this volume and is useful for many areas of media studies, including understanding how policy decisions are shaped by economic forces. Instead of the liberal-pluralist approach that treats economic factors as just one thread in a policy debate, presumably counterbalanced by nonprofit organizations and citizens, the political economic perspective analyzes how economic power saturates the entire policymaking process.

As the name suggests, political economy helps to identify links between politics and the economy at a

broad and deep level. We're not talking solely about the political influence that money can buy, although that is real enough: when, say, the CEO of News Corp rings up a member of parliament, you can be certain that the MP gets on the phone, while *your* call to your representative is unlikely to get personally returned. However, a political economic approach goes beyond the perks of being rich to look at entire systems of money and power: how economic forces structure the terms of debate, whose voices count, how outcomes are determined as "legitimate," and more. A key difference between this approach and IPA is that the political economy perspective tends to prioritize the relationship between economics, broadly understood, and ideology at the social level, while IPA tends to privilege local processes of meaning-making and cultural difference.

For example, in the United States, politicians may vary in their policy views—this person is more liberal, that person more conservative—but they are *all* likely to fundamentally support corporate capitalism. This is, in part, because most state and national political campaigns are primarily funded by wealthy donors (i.e., people who have benefited from the corporate capitalist system). A vice president at The Walt Disney Company is unlikely to give thousands of dollars to, say, a candidate who wants to nationalize the airwaves or dramatically curtail the copyright protections that benefit Disney at the expense of the public domain. Furthermore, the corporate, advertising-driven press tends to give less sympathetic coverage to candidates running on a platform of radical reform, handing another advantage to pro-corporate politicians. Then, once those politicians are in office, major corporations use their money and political influence to ensure that their (pro-corporate) perspectives get a serious hearing in any debate. Thus the economics of the political system and the worldview of policymakers themselves tend to reinforce each other: donor-funded campaigning and corporate lobbying usually "produce" politicians and regulators who are fundamentally friendly to the corporate media.

It is much more complicated than that, of course, but the upshot is this: a political economy approach helps us explain why any policy that fundamentally undermines corporate capitalism or the private interests of media companies is, within a system such as the United States', unlikely to gain much traction, regardless of how rational and effective it might be in serving larger policy goals. This systemic perspective allows political economy to illuminate many policy outcomes that the liberal-pluralist approach struggles to explain.

Cultural Policy Studies

Cultural policy studies is perhaps a bit more difficult to explain but has become highly influential. It doesn't help that the name is so generic, but that's because it has two meanings. First, it acknowledges that the media are just one of many forms of culture—music, the arts, sports—that are subject to regulation. Media policy is thus inseparable from other policies that encourage or support certain kinds of cultural products and institutions while discouraging or limiting others. Second, it refers not just to the study of how culture itself is regulated, but also how culture is used to regulate populations. In other words, the cultural policy studies approach looks at how the object of regulation is not, in the final analysis, the cultural products themselves but rather the attitudes and behaviors of the citizens who engage with such products. It explores how cultural forms, including the media, can be deployed as tools for managing how people behave.

For example, let's return to the regulation of sexual content on television. The traditional view, discussed above, would look at the balance of interests (broadcasters, parents, etc.) and seek to come up with the "best" policy, such as banning indecency when kids might be watching. The IPA view would study the cultural factors that influenced that decision. A cultural policy view, in contrast, would ask what such policies are seeking to accomplish—not in the narrow sense of keeping TV "wholesome" but within larger systems that regulate sex in society, including age-of-consent laws, sex education in schools, dormitories segregated by gender, and many more. Taken as a whole, these systems tend to encourage and reward "good" forms of sexuality (e.g., heterosexual, married, adult, procreative) while punishing "bad" sexuality through shaming, marginalization, imprisonment, and so on. From a cultural policy studies perspective, then, policies restricting sexual content on television are doing more than "protecting children" or any of the other rationales that usually get cited; they are seeking to shape behavior by sending messages about what kinds of sexuality are appropriate, for whom, and under what circumstances. They don't just regulate the media; they try to regulate society.

We see this clearly in the movie ratings assigned by the Motion Picture Association of America (MPAA), an example of self-regulation that tends to

enforce a heteronormative and patriarchal understanding of sex. As documentarian Kirby Dick has shown, the ratings board is more likely to restrict a film (through an "R" or "NC-17" rating) if it has homosexual content than if it has similarly explicit heterosexual content. If sex is depicted as pleasurable and consequence-free, the film will likely receive a stricter rating than if it's violent or if the woman is punished.[11] Such policies work to normalize certain attitudes and behaviors while stigmatizing others. Furthermore, they don't simply affect who can see which films, but also which films get made in the first place: because many theater chains refuse to show NC-17 films and many media outlets refuse to accept advertising for them, Hollywood doesn't make very many of them—they are too economically risky. At each stage, then, policy regulates sexuality in the culture by constraining what kinds of sexual speech can be produced, distributed, and consumed. From that perspective, media policies do not simply organize the media system but become integral to the workings of ideology and cultural power.

As you can tell, at this point we're well beyond simple questions like "Who should get the license?" Interpretative policy analysis, political economy, and cultural policy studies, though different in their questions, theories, and methods, all move beyond narrow, quantitative, technocratic, and outcome-oriented approaches to policy. They share an understanding of policy as a key conduit for social and economic power and a mechanism for regulating the cultural life of societies.

Major Modes and Terminology

For critical media policy analysis to go beyond the terms and assumptions of policymakers themselves, researchers must understand what those policymakers are talking about in the first place. That can be a challenging task, and media policy can vary greatly from place to place, industry to industry, and political system to political system. Nonetheless, a few broad concepts will help you think, at least in a general way, about the balance of legal, economic, and technological forces that you might need to understand.

Public Service Broadcasting, Commercial Broadcasting

In a public service broadcasting system, a nonprofit broadcaster is given privileged or even exclusive rights to produce radio and television for that country. Normally this is a governmental or quasi-governmental entity, such as the British Broadcasting Corporation (BBC) in the UK. This broadcaster is primarily funded by the state (often through a tax on television sets), and its job is to produce "quality" programs (however defined).

In a commercial system, broadcasting is dominated by private companies that, although they may be required to produce programs in the "public interest," are primarily motivated by profit. The programming is mostly paid for by advertising (although subscription models like HBO and Netflix are becoming increasingly common). Most countries initially opted for a public service system (the United States being the major exception), but today almost all have some kind of hybrid system, with a state-subsidized broadcaster competing with commercial media companies.

Markets, Market Forces, Privatization, Deregulation

Many policy analysts view the state as existing in tension with the free market, especially when it comes to commercial broadcasting. This relationship is often characterized as antagonistic, meaning that we imagine government regulations as obstacles to greater profit: if I'm a broadcaster, and the government limits how many ads I can run during children's programs, then that regulation is costing me money. This perspective has led to calls by media companies and politicians in many countries to remove such regulations, i.e., to *de*regulate the industry. Their argument is that competition and unfettered market forces will lead to better products at lower prices.

Many policy scholars have argued, however, that what appears to be an antagonistic relationship between media industries and the state is anything but. For example, Thomas Streeter has shown how broadcasters and policymakers in the 1920s and '30s actually *collaborated* through regulation: governmental policies, though often characterized as onerous burdens, in practice reduced competition and helped media companies profitably manage their markets. In other words, broadcasters were successful not despite regulation but because of it.[12] Similarly, today's era of so-called deregulation can be seen as "*re*regulation," i.e., not so much removing regulations as rewriting the rules in reaction to new technologies and market forces—usually in ways that continue to protect powerful incumbent players.

Forbidden and Compelled Speech, Censorship, Obscenity/Indecency, Libel, Fairness, Content Quotas, Language Laws

Every government regulates speech, and since the media are conduits for expression, media scholars need to understand how policymakers forbid some kinds of speech and require others. Many societies have very strict censorship, whether of political content, sexual explicitness, religiously sensitive material, or other kinds of speech that the powerful in that society wish to suppress. Other societies might have tolerant policies regarding politics or sex but strongly regulate commercial speech (e.g., banning cigarette advertising), or compel speech by requiring programming in a particular language or genre (such as public affairs programs). Another category of speech regulation involves truth and untruth. Advertisers are usually not allowed to make false claims about their products, and journalists are generally not allowed to deliberately publish lies that harm someone's reputation (libel). The point here is not to catalog all the ways that speech can be regulated, but rather to get you thinking about how such policies might affect the cases that you are researching.

Copyright, Intellectual Property, Public Domain, Fair Use/Fair Dealing

Copyright regulates speech by granting creators or authors the exclusive right to make and sell copies of their "intellectual property" for a limited time. After the copyright expires, the work enters the "public domain," making it free for anyone to copy, adapt, or rework however they choose. The idea is to incentivize creativity: we get a more vibrant culture, creators have time to earn money from their work, and after a few years we can freely build on that work to the benefit of society as a whole.

Today, unfortunately, the copyright system is broken due to policies that have dramatically expanded and extended copyright protections. In the United States, these revisions to copyright law were written by and for large corporations like The Walt Disney Company (a reminder of the value of political economy in studying policy). A 1998 act lengthened the term of copyright—originally just fourteen years—to a century or more before a work enters the public domain (i.e., becomes free to use by anyone without payment or permission). Also, the Digital Millennium Copyright Act (DMCA) gives preemptive rights to copyright holders, allowing them to boot even non-infringing videos off of YouTube, prevent consumers from refilling the ink cartridges in their printers, and more. Because of these policies, many believe that the original incentive structure at the heart of copyright is out of balance, with the public getting the short end of the stick.

Still, it is important to remember that copyright is never absolute. In addition to work in the public domain, there are exceptions allowing for "fair uses" such as scholarship, parody and satire, and transformative works. Furthermore, alternative voluntary copyright systems have emerged, such as Creative Commons, to address some of the problems with current copyright law.

Access, Universal Access, Barriers to Access, Diversity, Pluralism

Another important set of concepts relates to questions of access in a diverse society: Who has access to which technologies and content? This can be economic (e.g., how to guarantee access to communication tools for poorer citizens), geographic (how to get infrastructure to remote areas), physical (closed-caption television for d/Deaf people), or cultural (how to improve literacy and technical know-how in diverse communities). These policies are closely related to questions of power and social justice, making them ripe for critical analysis.

Globalism, Nationalism, Regionalism, Localism

Finally, media policy is created and implemented at different levels, from global standards-making bodies down to the individual, and all of those levels are interrelated. For instance, in the example above of local school boards filtering computers, such policymaking is not happening in a vacuum; instead, the U.S. government has made filtering a precondition for receiving federal educational funds. Similarly, many recent initiatives in copyright law have occurred at the global level, in particular as U.S. media companies use their influence to enact policies favorable to themselves around the world. So, we always need to be mindful of the regulatory context.

While not comprehensive, this list suggests the range of legal and cultural issues connected to media policy studies and, I hope, will help you see—and study—the media texts that interest you.

Methods

Although much of policy study is similar to research in other areas, here are a few of the key sources that policy researchers often use.

- Trade journals: These are newsletters, magazines, and websites that are written for people within a given industry (see also Chapter 22 on industry studies). Although the trades are not written for a general audience—they're the industry talking to itself—they are invaluable for understanding the ins and outs of policy. Depending on your location and the era you are studying, different publications will be helpful, so ask a research librarian for assistance.
- Government documents: In most democratic countries, government proceedings are public record, and many of these are published online. For historical research, you might need the assistance of a research librarian; you may also need to visit a library in your area that keeps paper records of legislative and administrative proceedings (called Federal Depository Libraries in the United States).
- Archives: While the trades and government documents are great research tools, many researchers find it necessary to travel to archives where an organization's records or an individual's personal papers are kept. For example, at the NBC archives in Madison, Wisconsin, are thousands of letters and interoffice memos that never made it into the public record. Government archives, such as the National Archives in the United States, keep countless documents that might be helpful.
- Ethnography and oral history: Some policy scholars, especially those using IPA, conduct ethnographies of contemporary policymaking processes. Unsurprisingly, gaining access is the challenge here; months of letter-writing and calling on your contacts may be necessary. For historical research, one possibility is oral history—interviewing people who were involved. If the folks you are writing about are still alive, it can't hurt to get in touch and see if they will share their perspectives and memories with you.

Challenges

Several things make it challenging to study policy. One is the specialized knowledge that it can require, which might be technical, legal, or economic—or all three. Since few media scholars are also engineers, lawyers, or economists, the need for specialized knowledge in these areas can seem daunting. Don't let that stop you, however: most issues quickly become clear even without an engineering or law degree. For example, in the case of station licensing above, one need not understand omnidirectional dipole antennas in order to grasp the ways that, say, a requirement like "financial wherewithal" favors well-funded corporate broadcasters over indies and nonprofits.

A second key challenge is access to information, a problem shared with media industry studies (Chapter 22). Even if you understand the issues, many relevant discussions, and often actual decisions, are made behind closed doors in the private boardrooms of media corporations, in off-the-record chats between policymakers and lobbyists, or in secret negotiations to which the public has no access. For example, the MPAA movie ratings board is famously so secretive that the public is not even allowed to know who is on it, much less why they arrived at a particular rating for any given film. Also, despite "Sunshine Laws" (such as freedom-of-information and open-meeting laws) designed to ensure public access to policy-related conversations held by government employees, it would be naïve to imagine that every relevant bit of hallway chat between regulators and industry representatives is being captured and made publicly available. Despite increasingly easy access to documents in the public record, scholars remain excluded from vast realms of important materials.

Case Study: Radio, Disability, and Media Policy

My case study, "'A Blessed Boon': Radio, Disability, Governmentality, and the Discourse of the 'Shut-In,' 1920–1930,"[13] combines two approaches discussed above, political economy and cultural policy studies, in order to understand how media policy in early broadcasting intersected with attitudes toward persons with disabilities. I got interested in this when I began to notice how often policymakers and others referred to "shut-ins" and people with disabilities when discussing radio; the obvious question was,

Why did so many regulators and industry insiders highlight people with disabilities as special beneficiaries of radio, and with what consequences for media policy?

I eventually recognized that invocations of the shut-in fit a pattern: they were used overwhelmingly in support of high-powered, expensive, national radio broadcasting. At the time, there was still a debate about whether the United States should have many low-powered local stations or just a handful of high-powered stations reaching most of the nation. The shut-in was consistently used to support the scenario with fewer national stations—which also happened to be the policy supported by rich, powerful broadcasters like RCA. In other words, ideas about disability were being used to shape media policy in the interests of corporate commercial radio.

It also became apparent that the influence went in both directions: just as disability played a role in the formation of media policy, so too did media policy play a role in changing ideas about disability. This was an era when persons with disabilities were not simply marginalized but were in fact targeted for eradication: forced sterilization, selective breeding ("eugenics"), and euthanasia were mainstream policy positions in the 1920s and '30s. Popular support for reasonable accommodations (such as requiring ramps to make buildings wheelchair-accessible) was decades off. Within this context, then, the idea that persons with disabilities might be special beneficiaries of radio had both negative and positive dimensions. It helped justify the idea that society need not enable physical and social access to public life for persons with disabilities (we can just bring public life to them in their homes via radio), but, more positively, it also subtly suggested that such individuals were worthy of inclusion in the American national community and should not be "weeded out."

Thus the major claims of my essay are:

- Disability played a key role in defining the purposes of radio in the earliest years of broadcasting.
- Discourses about people with disabilities played an important role in media policy, specifically as they were used to promote policies that benefited large corporate broadcasters.
- Simultaneously, radio helped change the meaning of disability by offering "virtual" inclusion in public life, helping constitute people with disabilities as fuller cultural citizens.
- This virtual inclusion was positive in so far as it advanced the humanity and worth of people with disabilities at a time when eugenics enjoyed wide support, but negative in so far as it blunted calls for physical inclusion and structural/legal access.

Even from that brief description of the argument, you should be able to take away several insights for your own work:

- I'm not asking, "What would have been the best policy for shut-ins, more low-powered or more high-powered stations?" Instead, I'm asking, "What does this debate tell us about how media policy works at a cultural level, in this case in terms of how we regard persons with disabilities?" My initial research question already pointed me toward a critical approach to studying media policy.
- I'm studying how disability and radio were being thought and talked about at the time, which called for a qualitative approach. This led me to mainstream newspapers and magazines, which I mostly found in online databases; trade journals and radio enthusiast journals such as *Radio World*; archival memos, minutes, and regulatory decisions found in the National Archives; and laws and policies pertaining to people with disabilities.
- In keeping with a critical approach, I don't assume that policy debates were rational proceedings based solely on technical facts, nor that the results were the fair outcome of liberal-pluralist democratic processes. Instead, I trace the ways that corporations like RCA enjoyed a privileged position in the debate, and how the outcome depended on cultural beliefs and attitudes as well as economic power. I also explore the importance of this debate for larger systems of social regulation and control.

Given more time and unlimited resources, I would like to find stronger evidence for the policy connection between the discourse of the shut-in and the push for national, high-powered radio. I'm pretty sure I'm right, but I never found a "smoking gun" for

that claim, and, realistically, one is unlikely to exist. The takeaway here is that qualitative research often results in evidence that is suggestive rather than proof-positive. People say things in passing in a letter or a newspaper interview, and scholars have to make their best guess about what that evidence is telling them. If there is a nugget of advice here, it is to research as much as you can, and always treat your arguments as invitations for further exploration rather than the final word on a topic.

Conclusion

The split between traditional and critical approaches to media policy reflects a change in media studies in the last thirty years. Ever more media studies curricula emphasize critical-cultural studies instead of traditional social-science approaches such as in journalism and mass communication programs. Through this, scholars have learned to question the neutrality of technical expertise and the fairness of mainstream consensus politics. For example, Allison Perlman has shown how streamlined procedures for renewing television station licenses—clearly the "best" policy from a traditional perspective that privileges bureaucratic efficiency and economic stability—prevent disempowered and marginalized groups from having a meaningful say in their local media. It's not that scholars in the technological or liberal-pluralist tradition could never spot the connection between license-renewal policy and social power; it's that scholars like Perlman who are trained in critical approaches start from different assumptions, ask different questions, and consult different sources, allowing them to more readily see that connection and its importance.

Through this work, policy studies are shifting away from technocratic "best solutions" toward an appreciation of the ways that "policy" is inseparable from larger cultural struggles. If there's a discernible trend here, it's that media policy will gradually become more central to *all* of media studies. For a long time, most critical media scholars treated policy, with its traditional emphasis on technology and consensus politics, as secondary to their interests in power, ideology, and identity. But as more scholars bring a critical lens to policy studies, the rest of the field is better able to see the policy implications of their own research questions. In that spirit, and without minimizing the practical challenges of researching policy, I hope you can see how media policy might be relevant to the questions and topics that *you* are interested in exploring further.

Notes

1. This example was inspired by Heather Hendershot's outstanding book, *Saturday Morning Censors* (Durham: Duke University Press: 1999).
2. For a paradigmatic example of this scholarly tradition, see Lawrence C. Soley, "An Evaluation of FCC Policy on FM Ownership," *Journalism Quarterly* 56, no. 3 (1979): 626–28. For a thorough critique of positivist and pluralist approaches to policy, with significantly more nuance than I can provide here, see Mary E. Hawkesworth, *Theoretical Issues in Policy Analysis* (Albany: State University of New York Press, 1988).
3. Des Freedman, *The Politics of Media Policy* (Cambridge: Polity, 2008), 2.
4. There can be other important considerations, such as minority ownership, though the FCC's commitment to that criterion has waxed and waned over the years.
5. Thomas Streeter, *Selling the Air: A Critique of the Policy of Commercial Broadcasting in the United States* (Chicago: University of Chicago Press, 1996).
6. Karl Bode, "FCC Insider: Spectrum Crisis 'Manufactured,'" *Broadband DSL Reports*, February 1, 2011, accessed October 7, 2017, www.dslreports.com/shownews/112526.
7. The "liberal" in liberal pluralism refers not to a liberal–conservative divide, but rather the idea that we all get to have our say in a democracy—we are free to voice our opinions and advocate for our desired policies. "Pluralism" refers to the belief that competition among all the different views will prevent any one group from dominating, which should then encourage moderation and lead to fairer policy outcomes.
8. For a good example of this, see Allison Perlman's study of how feminist organizations fought the FCC on television license renewals: part of the problem that the National Organization for Women and other activists faced was that the FCC did not see station licensing as an issue with gender implications, so feminists' voices were routinely discounted in the Commission's decisions. Allison Perlman, *Public Interests: Media Advocacy and Struggles Over U.S. Television* (New Brunswick: Rutgers, 2016).
9. Quoted in Tony Bennett, *Culture: A Reformer's Science* (London: Sage, 1998), 34.
10. Richard Freeman, "What is 'Interpretive Policy Analysis'?" *Social Science and Public Policy*, n.d., accessed October 7, 2017, www.richardfreeman.info/answer.php?id=18.
11. Kirby Dick, *This Film is Not Yet Rated,* Magnolia Home Entertainment, 2009.
12. Streeter, *Selling the Air*; Robert W. McChesney, *Telecommunications, Mass Media, & Democracy: The Battle for the Control of U.S. Broadcasting, 1928–1933* (New York: Oxford University Press, 1993).

13. Bill Kirkpatrick, "'A Blessed Boon': Radio, Disability, Governmentality, and the Discourse of the 'Shut-In,' 1920–1930," in *Disability Media Studies*, ed. Elizabeth Ellcessor and Bill Kirkpatrick (New York: New York University Press, 2017), 330–53.

Further Reading

Anderson, Chris and Michael Curtin. "Mapping the Ethereal City: Chicago Television, the FCC, and the Politics of Place." *Quarterly Review of Film and Video* 16, no. 3–4 (1999): 289–305.

Burkart, Patrick. *Pirate Politics: The New Information Policy Conflicts*. Cambridge: The MIT Press, 2014.

Chris, Cynthia. "Censoring Purity." *Camera Obscura* 27, no. 79 (2012): 97–125.

Classen, Steven Douglas. "Standing on Unstable Grounds: A Reexamination of the WLBT-TV Case." *Critical Studies in Mass Communication* 11 (1994): 73–91.

Ellcessor, Elizabeth. "Captions On, Off, on TV, Online: Accessibility and Search Engine Optimization in Online Closed Captioning." *Television and New Media* 13, no. 4 (2012): 329–52.

Heuman, Josh. "'I Don't Want to Pay for What I Don't Watch': The Cultural Politics of à la Carte Cable Television, and the Cultural Life of Communication Policy." *Communication, Culture & Critique* 4 (2011): 30–54.

Hilmes, Michele. "British Quality, American Chaos: Historical Dualisms and What They Leave Out." *Radio Journal* 1, no. 1 (2003): 13–27.

Holt, Jennifer. *Empires of Entertainment: Media Industries and the Politics of Deregulation, 1980–1996*. New Brunswick: Rutgers University Press, 2011.

Mayer, Vicki. *Below the Line: Producers and Production Studies in the New Television Economy*. Durham: Duke University Press, 2011.

Lewis, Justin, and Toby Miller, eds. *Critical Cultural Policy Studies: A Reader*. Malden: Blackwell, 2003.

O'Regan, Tom. "(Mis)taking Policy: Notes on the Cultural Policy Debate." In *Australian Cultural Studies: A Reader*, edited by John Frow and Meaghan Morris, 192–206. Chicago: University of Illinois Press, 1993.

Streeter, Thomas. "Blue Skies and Strange Bedfellows." In *The Revolution Wasn't Televised—Sixties Television and Social Conflict*, edited by Lynn Spigel and Michael Curtin, 220–40. New York: Routledge, 1997.

Tamanaha, Brian Z. "Understanding Legal Pluralism: Past to Present, Local to Global." *Sydney Law Review* 20 (2008): 375–411.

Vaillant, Derek. "Bare-Knuckled Broadcasting: Enlisting Manly Respectability and Racial Paternalism in the Battle Against Chain Stores, Chain Stations, and the Federal Radio Commission on Louisiana's KWKH, 1924–33." *Radio Journal* 1, no. 3 (2004): 193–211.

Yanow, Dvora. *Conducting Interpretive Policy Analysis*. Thousand Oaks: Sage, 1999.