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Information Disorder and Self-Regulation in Europe: A Broader Non-Economistic Conception of Self-Regulation

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Abstract: Over the past decade, the problems arising from social communication have yet again become burning issues on social and political agendas. Information disorder, hate speeches, information manipulation, social networking sites, etc., have obliged the most important European institutions to reflect on how to meet the collective challenges that social communication currently poses in the new millennium. These European Institutions have made a clear commitment to self-regulation. The article reviews some recent European initiatives to deal with information disorder that has given a fundamental role to self-regulation. To then carry out a theoretical review of the normative notion of self-regulation that distinguishes it from the neo-liberal economicist conception. To this end, (1) a distinction is drawn between the (purportedly) self-regulating market and (2) a broader conception of self-regulation inherent not to media companies or corporations, but to the social subsystem of social communication, is proposed. This involves increasing the number of self-regulatory mechanisms that may contribute to improve social communication, and reinforcing the commitment of those who should exercise such self-regulation, including not only media companies but also the professionals working at them and the public at large.

Keywords: self-regulation; information disorder; ethics of mass media

1. Information Disorder and Its Legal Regulation through Law and Self-Regulation: The European Position

Over the past decade, the problems associated with communication and information have yet again become some of the most pressing social and political concerns in our societies. One such problem has to do with fake news—and more recently deepfakes—and its influence on electoral and political processes even in the most developed countries in the world, such as Trump's election campaign in the United States and the Brexit referendum in the United Kingdom. Yet another is the escalation in hate speeches against national, racial, etc., minorities, relating to the emergence and growth of populist movements and parties in Europe, which have known how to leverage social networks and non-traditional communication channels. Back in 2013, the World Economic Forum (WEF) had already identified the rapid spread of misinformation as one of the top 10 trends in our societies (WEF 2013). This risk is currently perceived by the public at large: in 2018, 83 per cent of Europeans believed that fake news posed a serious threat to democracy (EC 2018a, p. 4). New communication and information technologies (ICTs), which seemed to hold the promise of a more participatory and democratic communication utopia (Aznar 2014; Esteve 2018), have yet again given rise to the grave issue of information and communication manipulation, to the point of becoming one of our greatest collective challenges at present. The problem's scope and dimension have prompted different European institutions to attempt to tackle it in a significant number of documents and initiatives over the past few years.

As noted by the European Union (EU) in one of its most relevant documents recently dedicated to this issue, today, the Internet has not only vastly increased the volume and variety of news available to citizens but has also profoundly changed the ways citizens access and engage with news. The easy availability of diverse quality information has the potential to make democratic processes more participatory and inclusive. Yet, new technologies can be used, notably through social media, to disseminate disinformation on a scale and with speed and precision of targeting that is unprecedented, creating personalized information spheres and becoming powerful echo chambers for disinformation campaigns (EC 2018b, p. 1).

Accordingly, the European Commission (EC) has noted, "The exposure of citizens to large scale disinformation, including misleading or outright false information, is a major challenge for Europe" (EC 2018b, p. 1).

The Council of Europe (CoE) had already addressed these issues—although the concept of 'information disorder' had not yet been invented—as a result of the Gulf War and the Yugoslav Wars during the 1990s (CoE 1993). This coincided with the adoption of a very important document on journalistic ethics—referring to the traditional media—which should have served to guide future European actions aimed at dealing with such dilemmas. But the initiative received little coverage. The enormity of the problem—currently affecting the traditional media, the Internet and social networking sites—has led the CoE to reconsider it as a priority issue in a report in which it stresses the need for the active participation of all the stakeholders to meet this challenge (CoE 2018, p. 82ff).

The current question is how this phenomenon should be actively and legally addressed in order to reduce its negative social and political impact to a minimum. In its resolution of June 2017, the European Parliament informed the EC about this challenge "to analyze in depth the current situation and legal framework with regard to fake news and to verify the possibility of legislative intervention to limit the dissemination and spreading of fake content" and, similarly, as regards hate speeches (Gabriel 2019, p. 1).

However, in the opinion of some, a view that we share, the legal measures—i.e., hard law—albeit essential, find it hard to resolve, let alone prevent, the problems deriving from disinformation, hate speeches, etc. This is due to a number of features inherent to law and social communication (Aznar 2010; Rodríguez-Borges 2010).

First and foremost, law enforcement has its own structural idiosyncrasies—including its cost, slowness, complexity and national scope—which clash with the functioning of the traditional media and even more so with ICTs, whose speed is increasing day by day and whose reach now extends far beyond national borders.

Secondly, the variability, multiplicity and continual innovation of social communication always make it difficult for legislation to address the specific aspects of its praxis; when it comes close to doing so or even achieves its aim, that legislation soon becomes obsolete owing to the advent of new communication uses or technological advances.

Lastly, in liberal societies the legal system adopts a rights-based role, in which the protection of the freedom of expression occupies a preeminent or preferential place, thus hindering the enforcement of restrictive laws pertaining to that freedom.

Thus, the passing of laws to deal with these new communication risks can give rise to other similar or more serious ones, which may presuppose political interests in their enactment and enforcement (CM 2016, ¶II. 36). A good example of this is the Public Safety Act, passed by the government of the Partido Popular (PP) in Spain in 2015, with its restrictions on freedom of expression and of the media. This piece of legislation, enacted with a view to protecting the country's law enforcement bodies and to prevent the glorification of terrorism, has come to be known popularly as the 'gag law'. Since being passed, there has been a steady flow of complaints lodged by journalists, professional associations and non-governmental organizations (NGOs); and, among other things, it has served to prosecute and force into exile people as 'dangerous' as several rappers (!) (AI 2017).

In the case of hate speeches or prejudiced or stereotyped discourses against minority groups and other collectives, the legal system encounters the same difficulties, expect in the most serious

cases. The most common discourses of this type tend to resort to subtle ways of making their point, to metaphorical expressions and to similes whose meaning is open to different interpretations, all of which obstructs their legal prosecution. In his pioneering work, *Liberty and the Press*, where the challenges of disinformation in complex societies were addressed for the first time practically a century ago, Walter Lippmann already noted the legal obstacles when attempting to deal with such discourses:

> If I lie in a lawsuit involving the fate of my neighbor's cow, I can go to jail. But if I lie to a million readers in a matters involving war and peace, I can lie my head off, and, if I choose the right series of lies, be entirely irresponsible. Nobody will punish me if I lie about Japan. I can announce that every Japanese valet is a reservist, and every Japanese art store a mobilization center. I am immune[1] (Lippmann 2008, p. 23).

Therefore, the legal system should play a rights-based role to protect freedom of expression and information, only intervening in the most serious and blatant cases of hate and slanderous speeches and discourses whose purpose is disinformation or information manipulation (CM 2016, ¶¶II.1 and II.4). Besides these cases, the legislative and preventive mission of the legal system should be duly supplemented not with further laws or their comprehensive enforcement, but with self-regulation. This does not mean in any case that self-regulation should replace the law or that it itself is not subject to its own limitations; mainly its limited effectiveness in the absence of the sanctioning capacity of the law (Aznar 2011, pp. 22–25). What is raised is the need that, in increasingly complex societies, the regulatory role of law be complemented with the contribution of self-regulation. The latter can contribute to addressing some of our collective challenges, particularly in the protected field of the freedom of expression (Aznar 1998, 2010, 2018; Frost 2000; Puddephatt 2011; Rodríguez-Borges 2010; Suárez-Villegas 2012).

Self-regulation entails the capacity of civil society to establish the normative standards governing the different social subsystems, such as that of social communication. This would address (1) the deregulatory trend of the neoliberal advocates of the market; (2) the difficulties faced by the legal system when attempting to cover all the legal needs of our societies; and (3) the risk—both bureaucratic and political—of administrative and judicial regulatory overkill. As noted by the European Economic and Social Committee (EESC), probably the European institution that has done most to underscore the role of self-regulation, "In various fields and in a number of national and international bodies, self-regulation and co-regulation have long been considered a vital supplement to regulation by other bodies, in order to ensure that a range of economic and social activities are properly regulated" (EESC 2015, ¶2.1).

Thus, in complex and advanced societies it is increasingly more necessary—and urgent—to devise self-regulatory mechanisms, initiatives and formulas that supplement the fundamental work of law:

(1) adapting to the specific circumstances, with a greater ability to address the particularities of each case and to be more specific in its considerations;

(2) acting more swiftly and adapting more efficiently to the changes and innovations in social communication;

(3) relying on the judgement of experts with the greatest experience and knowledge of topics relating to social communication; as well as the participation of professionals and the public, both at large and those affected in each case;

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[1] In the globalised world emerging at the beginning of the twentieth century, Lippmann was referring to the campaigns against the Japanese launched by the newspapers owned by Hearst on the West Coast of the United States, whose aim was to create a favourable climate for war, something that had happened some years before with the press campaigns against Spain that had contributed to the outbreak of the Spanish-American War in 1898.

(4)　handing down ethical convictions and cautions and disclosing these rulings to the media, communication company and professional organizations and the public at large;[2]

(5)　and, lastly, taking preventive measures through both its resolutions, recommendations and moral codes, to serve as future action guidelines, plus the implementation of awareness-raising initiatives through publications, specialized seminars, information campaigns, advertising, etc.

Self-regulation implies making civil society co-responsible for its collective governance, thus making legal-political regulation less necessary, while increasing its maturity and capacity for self-government (EESC 2015, ¶4.10.e; Bartle and Vass 2007; Parker 2002).

In recent years, the EU and other European bodies have become increasingly more committed to self-regulation. This commitment, which originates from the Treaty on the EU itself, recognizes the importance of the guiding principles of its political and regulatory activity, viz. the principle of subsidiarity, when it is not only interpreted territorially and politically, but also socially (TUE 2016, Art. 5; EESC 2015, ¶4.5.a; Bartle and Vass 2007). This linchpin was supplemented by the EU's resolve to simplify its legislative processes in order to enhance their effectiveness and utility and to bring them more in line with the citizenry's needs, in the framework of the Better Regulation Agenda. Under the general slogan, 'legislating less to legislate better', this agenda tends to favor, whenever possible, self-regulation and co-regulation. Although it is true that its most recent version does not explicitly include this commitment (EU 2016), there was a clear reference to it in the Interinstitutional Agreement of the European Parliament, the Council and the Commission of 2003 (EU 2013, Arts. 16 to 23).

In line with this development of self-regulation—and co-regulation—the EC, in the framework of its Digital Single Market (DSM) strategy, launched the Community of Practice for better self- and co-regulation (CoP) pilot project. Its main objective was to examine the role of self- and co-regulation (SR-CR) in the policy process, bringing together, between 2013 and 2017, stakeholders interested in sharing experiences and ideas. It also drafted 'Principles for Better Self- and Co-regulation' (EC 2014), a reference document for assessing and implementing self- and co-regulatory initiatives, included by the EC in its Better Regulation Agenda in 2015.

If this favorable stance on self- and co-regulatory initiatives generically characterizes the EU, it is even clearer in issues pertaining to social communication. Several of the EU's initiatives reflect this.

So, if the Audiovisual Media Services Directive (AVMSD) insisted at the time on the role of self-regulation, in the recent review of this directive its importance as a supplement to hard law in this area has been yet again underlined:

Member States shall encourage co-regulation and/or self-regulatory regimes at national level in the fields coordinated by this Directive to the extent permitted by their legal systems. These regimes shall be such that they are broadly accepted by the main stakeholders in the Member States concerned and provide for effective enforcement (EU 2018, Art. 4.7).[3]

Furthermore, it should be noted that the directive's review has been accompanied by a study in which different European self-regulatory initiatives in the field of television have been evaluated, focusing on two aspects: child protection and alcohol consumption. In this evaluation, the aforementioned 'Principles for Better Self- and Co-regulation' have been applied, creating a research/evaluation precedent for the effectiveness of these self-regulatory mechanisms (EC 2016a).

European initiatives aimed at combating fake news and information disorder in general have also highlighted the role that self-regulation should play. In this connection, the conclusions at which the

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[2]　Some of these self-regulation mechanisms—and above all those of co-regulation—can envisage more severe penalties: fines, expulsion from business or professional organisations and even the lodging of complaints with the courts (EESC 2015, ¶¶1.6.i–j)).

[3]　Further on: "Member States and the Commission shall encourage media service providers to develop codes of conduct regarding inappropriate audiovisual commercial communications, accompanying or included in children's programs, of foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular those such as fat, trans-fatty acids, salt/sodium and sugars, excessive intakes of which in the overall diet are not recommended" (EU 2018, Art. 9.2).

EC arrived in the report addressing these issues between 2017 and 2018, with close on 3000 replies from experts, professionals and civil society organizations from all over Europe, are especially noteworthy. In light of the feedback, the report singles out the consensus reached on the fundamental role of self-regulation (as well as giving an essential role to both civil society and a combination of different mechanisms, as will be addressed further on).

There was support for a holistic, multidimensional approach to implementing self-regulation, with the involvement and voluntary cooperation of all stakeholders and using a combination of measures. The aim would be to tackle not just the fake news phenomenon, but also the wider issue of information disorder (EC 2018a, p. 21).

In line with this report, the EC subsequently drafted its most relevant document to date in relation to these issues, in which it reconfirmed the crucial importance of self-regulation, before adding, "the development of media literacy in all sections of society should be promoted", to which it dedicates a detailed section (EC 2018b, p. 11ff). The European Commissioner Mariya Gabriel, the person in charge, concluded, "Undeniably the self-regulatory approach desired by the Commission is the one that raises everyone's expectations, I being the first of these. It is also the one which has to produce results the fastest" (Gabriel 2019, p. 3).

As a direct result, in October 2018 the Code of Practice against Disinformation was signed by Facebook, Google, Twitter and Mozilla, as well as by advertisers and the advertising industry, with Microsoft following suit in 2019; but with the novelty that these companies have been required to submit roadmaps to implement the code, which reflects a certain degree of commitment to its implementation and continuity (EC 2018c).

A few years before, in May 2016, the EC had already promoted a similar initiative, with the approval of the Code of Conduct on countering illegal hate speech online, also signed by the online giants Facebook, Microsoft, Twitter and YouTube, and later on, in 2018, by Google+, Snapchat and Dailymotion (EC 2016b). These major companies undertook to review all the content reported by civil society and, in the event that it breached the code, to remove it, a measure that was implemented within 24 h in 89 per cent of the cases in 2019. The code's results and, therefore, its effectiveness are evaluated periodically. In the fourth evaluation, performed in February 2019, the accent was placed on the "continuous progress on the swift removal of illegal hate speech", which "proves [the code] to be an effective tool to face this challenge" (EC 2019).

This same commitment to self-regulation when ensuring its quality and future is to be found in the field of traditional journalism. In this case, what is involved is the recent Declaration by the Committee of Ministers on the financial sustainability of quality journalism in the digital age, which encourages the Member States to promote—and contribute to finance—the initiatives of journalists and the media aimed at "strengthening journalistic ethics and principles such as fact-checking or reflecting a plurality of views present in society" (CoE 2019, Art. 12.c). Something on which the CoE had already insisted when tackling the problem of information disorder, ensuring "strong ethical standards across all media" (CoE 2018, p. 83).

In sum, over the past few years the European institutions have demonstrated their commitment to self-regulation in their statements, reports, programs, etc., insisting on the need for ethical standards to meet the major challenges of our complex societies in the field of social communication.

At a global level, several international organizations have also spoken in favor of the contribution of self-regulation. We will mention just two sufficiently illustrative examples. On the one hand, in relation to information and ICTs the Organization for Security and Co-operation in Europe (OSCE) was one of the first to publish, in 2013, a series of recommendations to promote the self-regulation of digital media and the Internet (OSCE 2013). And, on the other, the United Nations Educational, Scientific and Cultural Organization (UNESCO), whose recent *Global Report on World Trends in Freedom of Expression and Media Development 2017/2018* also highlighted the growing interest in self-regulation as one of the trends both in the most traditional type of journalism and on the Internet. In this vein,

its director-general Audrey Azoulay concluded, "Media and Internet companies are increasingly aware of the need for self-regulation" (UNESCO 2018, pp. 11, 16).

So, it is clear that the majority—or even common—position of the international institutions that, in recent years, have focused on the most pressing challenges posed by social communication—i.e., information disorder, fake news, new forms of manipulation, hate speeches, journalism and broadcast media quality, etc.—agree on the need to implement and support self-regulatory initiatives as one of the most essential contributions.

But the relevance given to self-regulation does not mean to say that its very notion and scope have not been the subject of debate. In recent years, several authors have debated on the importance of self-regulation, its distinguishing traits and mechanisms and its contribution to adjusting social communication to the functions and values that should guide the general activity of this subsystem. In this respect, a theoretical analysis, such as this one, should help to clarify what should be understood as self-regulation, which may contribute to define its scope more satisfactorily (CoE 2018).

In the following pages, we will address the confusion caused by some when referring to self-regulation, inasmuch as they tend to mistake it for the *self-regulation* attributed to the market. This confusion tends to be compounded in turn by that which assigns the prominent role in self-regulation to companies. For our part, we will first distinguish between the (purportedly) *self-regulating* market system—in italics to differentiate it—and inherently ethical self-regulation aimed at enforcing the values and rules with which a particular social subsystem should comply, in this case that of social communication. On the basis of this conceptual clarification, we will then discuss what we have called 'a broader conception of self-regulation', based on the participation of all the stakeholders intervening in social communication and which is structured through very diverse mechanisms that are more numerous than first meets the eye. Self-regulation is thus understood as that of the social communication subsystem as a whole, and not as that of companies operating in its framework (comp., EESC 2015, ¶¶1.1 and 5.26). Considered in this broader sense, self-regulation becomes a way of collectively involving civil society in and making it jointly responsible for promoting a social communication system adapted to social roles and to correct ethical action.

2. Misconceptions of an Erroneous Conception: The *Purportedly Self-Regulating* Market System

2.1. The Purportedly Natural or Mechanistic Self-Regulating Market System

As already noted, self-regulation tends to give rise to a certain amount of confusion and, consequently, neither its meaning nor its scope is adequately understood. There are some that understand the self-regulation of communication as if it were just another case of the self-regulation that some attribute to the functioning of the market in a capitalist economy. This economic confusion about the meaning of self-regulation normally results in another: believing that the self-regulation of communication solely involves companies, as if these were the only ones expected to put it into practice. These misconceptions need to be clarified to gain a correct understanding of what we are talking about when referring to the self-regulation of social communication.

It is a common assumption, attributed to classical economics, that the market is a self-regulating system, one that has become a sort of dogma for the dominant neoliberalism over the past few decades, notwithstanding the fact that this self-regulating market system has never really existed: neither has a totally autonomous market ever existed nor, for that matter, has there ever been a society without institutions limiting or supplementing it in some way (e.g., Catalán 2017).

This is neither the time nor place to discuss the economistic assumption that the market regulates itself: to disprove this suffice it to recall the recent global economic crisis, which occurred precisely in the context—or even as a result—of several decades of neoliberal policies. What interests us most here is to determine what type of notion of self-regulation is envisaged in this economistic conception and to see how it differs from the standard use of the term 'self-regulation' when applied to social subsystems, such as that of communication.

As for the market, self-regulation is posited as a unintentional process in which the actions of economic actors adapt to each other, thus allowing them to continue to operate autonomously, (for what follows Foucault 2009). In this case, the 'regulation' of the market—its (assumedly) autonomous functioning—is not a result of the enforcement of *rules* (as occurs in the case of the self-regulation of communication). Quite the opposite, in fact, the more the market agents are allowed to act freely, pursuing their own gain, the better the results the market economy will supposedly achieve. Hence, the self-regulating market system is a key assumption for legitimizing and promoting its deregulation, namely, the elimination of all those rules and interventionist policies that hinder its proper functioning in the most independent fashion possible.

As the neoliberals contend, the more deregulated the market is, the better it will regulate itself, as if it were a natural process capable of functioning correctly in an autonomous way. Forgetting that the functioning of the market necessarily entails human decisions, the intention is that this should be similar to other natural processes of a homeostatic type, to wit, ones that tend to balance themselves through their own activity: like the regulation of blood pressure by adrenaline or body temperature by sweat.

This apparently homeostatic functioning of the market would be based on two mechanisms: price adjustment and competition. The former allows for the coordination of the actions of economic agents through the information represented by prices, thus facilitating decision-making and exchange without the need for the intervention of a central power to coordinate those agents.

The mechanism of competition is even more essential to the issue at hand. This transforms the selfish interests of the agents competing in the market into collective improvements for all and sundry in the mid-term. It is what Adam Smith called the 'invisible hand' of the economy, capable of converting the selfish quest for one's own good into that for the common good.[4] Individuals pursue their own financial gain but, thanks to competition, there are only two ways of achieving this: to produce cheaper and better quality goods and services to attract more buyers in both cases and to make a higher profit. Competition thus brings about an improvement in the production system and, therefore, in society by producing consumer goods more accessible to all or by improving them, thus favoring innovation and progress.

So, thanks to these two mechanisms—price adjustment and competition—both the independent functioning of the market and improvements in society would both be achieved: in other words, the self-regulating market system.

It should be stressed that, in theory, to achieve this allegedly self-regulating market system suffice it to allow the agents competing in it to act freely; and, additionally, it is enough that those agents act driven only by the selfish quest for their own gain, for their higher profit. Therefore,

(1)　the proper functioning of society and its progress—thanks to the distribution of goods and to the reduction of their price and their improvement—are not the results that the economic agents pursue: what they all seek is their own gain and producing and offering those goods is a way of achieving this;

(2)　the market agents do not have to be motivated by or concerned with anything else but their own interests, their desire for profit;[5]

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[4]　In a passage of *The Wealth of the Nations* [1776] which has become famous: "It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own self-interest. We address ourselves not to their humanity but to their self-love, and never talk to them of our own necessities, but of their advantages"; then: "[By] directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end that was no part of his intention . . . By promoting his own interest he frequently promotes that of society more effectually than when he really intends to promote it."

[5]　Moreover, the more they act in this way, the more concerned they will become only with their gain; and the more selfish they are, the better it will be for the market and, therefore, for society.

(3)　the proper functioning of the market does not therefore have to do with moral values or rules imposed on the economic agents, but is a by-product of the quest for personal gain and the coordination of actions by means of a price system and competition.

(4)　Accordingly, this is exactly the opposite of any sort of moral or normative self-regulation: the market (it is assumed) does not require rules or moral values; its functioning is the causal result of its two basic mechanisms—i.e., price adjustment and competition; and its 'energy' input is exclusively the selfish interest of the agents competing in it. It is therefore an unintentional and amoral kind of self-regulation.

However, with the self-regulation of social communication—or any other social subsystem—we are referring to something completely different from the (purportedly) self-regulating market system.

2.2. The Normative Self-Regulation of Social Communication

The type of self-regulation that is discussed in the field of social communication is poles apart from that which we have just described above: it is not causal but intentional; it is not spontaneous but normative. The self-regulation of communication never results from the selfish actions of those who operate in the communication market, which rather tends to produce very negative results: from junk TV programs to sensationalist news (Aznar 2011; Bennett 2002; McChesney 2002).

Indeed, social communication is subject to regulatory demands deriving from social functions, with which it should comply, and from the internal goods that should guide its activity (Kovach and Rosentiel 2001; Silverstone 2006): to provide truthful information; to respect fundamental values; to serve as a space for freedom of expression and plural social debate; to entertain without prejudice to children and general culture, etc. But if these ethical demands are only a thing of the moral conscience of those working in the media, communication ethics is limited to an informal and vague morality (Aznar 2000; 2011, p. 31ff; Real 2018). It is informal because it solely depends on one's own identification with certain moral values and content more or less assimilated through the processes of socialization and professionalization. It is diffuse with an imprecise framework and content, which would not be explicitly formulated, but only expressed through personal opinions and the judgements of public opinion.

In spite of the fact that this type of morality is fundamental and necessary, it is also insufficient. Firstly, due to its imprecision because its content and rules have not been clearly formulated anywhere, these being left to the whim of personal opinions. Secondly, because of the lack of external 'support' to enforce them. Thus, it is possible to have very lofty moral ideals and convictions, but the circumstances exert influence in the opposite direction. This is very common in social communication in which there is a great deal of (political, economic, etc.) pressure and job insecurity, a combination that makes it very difficult to defend ethical convictions, however strong these may be (CoE 2019, Arts. 3 and 6; Kovach and Rosentiel 2001).

In contrast, when we talk about self-regulation, we are referring to all the mechanisms that can be set in motion, that can be institutionalized to help to formulate explicit and objective communication ethics and to reinforce the associated demand for compliance, thus gaining clarity and effectiveness (Aznar 2010; 2011, p. 9ff; EC 2014; Puddephatt 2011). These mechanisms thus supplement informal and vague morality, giving it a public, common and shared formulation and openly demanding its compliance (see Table 1).

Table 1. Dimensions of social communication ethics.

*1. Informal and vague dimension = **moral conscience** of the subjects of communication*
+
*2. Formal and institutionalized dimension **= self-regulatory mechanisms***
[objectified and institutionalized formulation = greater objectivity, clarity and effectiveness]

[Own elaboration].

Although we refer to them here as 'self-regulatory mechanisms' (Aznar's all entries; CoE 2019), they are also commonly known as 'media accountability instruments' (MAI) (e.g., Bertrand 2003; Fengler et al. 2011; Rodríguez-Martínez et al. 2017; Suárez-Villegas 2017). We prefer our designation since the meaning of 'self-regulation' (as will be seen in the following point) is broader than that of 'accountability', which is closer to an obligation or willingness to accept responsibility and which tends to place the accent on the central role played by the media and their professionals. Self-regulation, in this sense, refers to its application to the social subsystem of communication as a whole. This conception includes accountability and allows for including a greater number of self-regulatory mechanisms or instruments than when it is exclusively restricted to the concept of accountability (see Table 2).

Table 2. Self-regulatory mechanisms for social communication.

1 Mechanisms Created by/at Communication Companies or Media Outlets		
Internal media mechanisms	*	*Public-oriented*
		- Ombudsman
		- Complaints offices
	*	*Content-oriented*
		- Style books
		- Editorial guidelines
	*	*Journalist-oriented*
		- Internal codes
		- Newsroom statutes
		- Professional committees
Corporate and media transparency	-	Information on corporate data
	-	Internal ethical audits
	-	Stakeholders' meetings
Social participation	-	Chats, digital spaces to interact with readers
	-	Letters to the director/editor
	-	Direct complaints
	-	Citizens' committees and civil society organizations
	-	Sectoral or thematic meetings with civil society groups and organizations
2 Mechanisms Created Outside Media Outlets or Groups		
Journalistic mechanisms	-	External codes (professional or social) of communication and journalism ethics
	-	Press and audio-visual councils
	-	Journalists' organizations (general or specialized professional associations and/or professional colleges of journalists)
	-	Journalist opinion polls
	-	Ethics committees of professional organizations
	-	Journalism training
Media transparency and criticism	-	Specialized and academic publications
	-	External ethical audits
Social participation	-	Social media criticism and debate
	-	Media observatories
	-	Advertising observatories
	-	Media users' associations
	-	Civil society associations of those affected by or with an interest in the media
	-	Media literacys

[Source: own elaboration drawing from different sources: (Fengler et al. 2015; Rodríguez-Martínez et al. 2017; Suárez-Villegas 2017)].

So, what we mean here by the self-regulation of communication is the 'capacity' of the social communication subsystem to establish its normative action guidelines and to reinforce the demand for accountability and levels of compliance. The communication subsystem encompasses a broad range of subjects of social communication: the media, communication companies and advertising agencies; also now platforms, Internet companies, etc.; journalists and other communication professionals; consumer and user associations and other civil society stakeholders; and the general public. Self-regulation involves a shift in the regulatory changes affecting the media and social communication from the market—and its economic (de)regulation, and the state and its legal-administrative regulation—to civil society and its ethical regulation, always on the basis of the personal initiative and commitment of the aforementioned subjects of communication (Aznar 2011; Real 2018; Rodríguez-Borges 2010; Suárez-Villegas 2012).

Therefore, this is the direct opposite of the concept of self-regulation employed in the field of economics, which assumes that the more the market is deregulated, the more it will correspond to the selfish interests of whoever competes in it; and the fewer the laws and rules limiting its free functioning there are, the better it will regulate itself. In contrast, the self-regulation of communication rather means that those participating in the communication process establish their own norms and rules of conduct, moral obligations that should be fulfilled to comply adequately with the social functions of social communication and to ensure that this is ethically correct.

The self-regulation of communication is the exact opposite of an involuntary and purely causal process, as presumably occurs with the self-regulating market system. On the contrary, it is an intentional, conscious and voluntary process, as well as free, in which those making up the communication subsystem establish their own operating standards. It is the voluntary compliance with the rules that those forming the communication subsystem impose on themselves to fulfil their social role, and this is so precisely because they seek and intend to reinforce that compliance.

It is this ability of the subjects of communication to regulate themselves—to impose their own rules on themselves—that makes it possible to supplement the legislation in this regard:

(1) establishing guidelines that are much more specific vis-à-vis all the aspects of the normative content of that legislation, restricted by the preferential status of freedom of expression and its rights-based and general character;

(2) and highlighting an ethical motivation to meet those normative standards, with their consequent preventive effect.

What our liberal and complex societies require is not so much additional legislation as the effective development of the self-regulatory mechanisms that supplement hard law and the co-responsibility of all for the preservation and enhancement of a social asset as fundamental as social communication.

3. A Broader Conception of Self-Regulation: The Different Self-Regulatory Mechanisms of Social Communication

The erroneous conception of the purportedly self-regulating market system described above leads to another misconception. Thus, there are some who understand the self-regulation of communication as being limited to the actions that communication companies may perform. This confusion is also down to the growing social relevance of companies and major corporations during the last century, thanks to their sales figures and their enormous power, which means that nowadays it is more common to speak of communication 'companies', instead of 'media' outlets (Bennett 2002; McChesney 2002).

Certainly, some or even most of the self-regulatory mechanisms as regards communication cannot be understood—and much less be effective—without the involvement of communication companies: from the approval of internal codes of conduct to the appointment of ombudsmen, through the introduction of editorial guidelines—in countries like Spain where they are not mandatory—and external collective codes, or by offering financial support to press councils, without which their survival and effectiveness would be uncertain. Nevertheless, the conception of self-regulation described here

goes beyond this prominence of companies. It is a broader conception as to both its meaning and scope and, above all, its promotors and main actors.

As already observed, what is involved is the self-regulation of communication referring to the social subsystem of communication as a whole and, consequently, to all the subjects forming part of it: not only communication companies and their media outlets, but also the professionals that produce the news and the public that consumes it. Ergo, self-regulation involves each and every one of the subjects of social communication. Their all have a shared responsibility.

Of course, that co-responsibility is greater in the case of entrepreneurs as producers of goods—not simply commodities, but a fundamental social asset subject to a number of particular ethical demands (CoE 1993, Arts. 11 y 15)—and owing to the fact that they make a profit from it. It is also greater in the case of professionals: they have chosen—as a vocation, one assumes—to make communication their profession, have trained to engage in this occupation and, therefore, should comply with its ethical principles and standards when doing so (Aznar 2015; Glasser 2002; Kovach and Rosentiel 2001; Real 2018). Supposedly, for those who work in the media, i.e., information and communication professionals, it should be especially important that their activity adapts as far as possible to the roles, purposes and values of social communication, and to the rules that should govern it.

Lastly, the public, as the receivers and consumers of the media and their content, also bear an important part of that responsibility (Aznar 2018). First and foremost, because they influence the communication process with their consumption decisions. Also now, with the interactivity that ICTs allow, when they are playing an increasingly more active role, commenting on, disseminating, reproducing, etc., media content (Aznar 2014; EC 2018b, p. 5). It is true that the free or semi-free nature of the media, which do not charge for access to their content or charge a symbolic fee much lower than the real cost of producing it, makes the public lose sight of the responsibility that they have as consumers. But if that responsibility exists in all the spheres of our consumer activity, this is all the more so in one of the most essential consumer spheres of social life: that of communication. Just as we have a responsibility to our natural environment, so too do we to our cultural environment, constructed to a great extent by the media, social networking sites and the Internet (Aznar 2015; Silverstone 2006).

We as entrepreneurs, professionals and the public are all agents who, to a greater or lesser degree and in a more or less specialized or general manner, intervene in the social communication process and make it possible. Accordingly, we should share a concern for and a common desire to avoid incorrect social communication, plus the direct or unanticipated negative consequences to which it can give rise.

The fact remains that each and every one of the agents also acts with other different associated purposes in mind. In the case of entrepreneurs, this would involve improving the recognition and/or increasing the revenues of the media or the services that they provide. In the case of professionals, it would entail improving their journalistic practices and the news that they produce, thus enhancing their prestige and socio-occupational position. In the case of the public, this would require promoting some other social aims (child protection, the image of women, the non-discrimination of minority groups, etc.) (Aznar and Castillo 2018). At any rate, improving communication and its practices is in all cases an objective that is both necessarily sought after and intentionally promoted, and not the mere result of market competition. Hence, the importance of creating a series of mechanisms that channel and put into effect that desire for self-regulation.

The full list of the mechanisms that could be introduced and which may contribute to the self-regulation of communication is shown in Table 2. Some of them have been about for over 50 years—including ombudsmen, press councils and the formal training of journalists—or even a century—such as ethical codes and journalists' organizations for both professionals and editors. In contrast, there are others in which there have only been a few pioneering or isolated experiences, such as participation in shareholders' meeting or ethical audits of the media. The need and even urgency for their implementation also varies from one case to another, depending on the effect that they may have on improving communication, the effort involved and their cost: from the low cost of introducing editorial guidelines in the media to the greater cost of creating an audio-visual council,

through others that are decisions of a more 'political kind', such as the introduction of media literacy modules in the basic education of the citizenry.

The main argument heard against the self-regulation of communication tends to be its ineffectiveness, primarily because of its lack of power to impose penalties, at least in the strongest sense of hard law (EESC 2015, ¶4.10.f). Although this assertion may be true, it should not lead us to believe that the introduction of these self-regulatory mechanisms is pointless. It makes no sense to claim that they lack utility when many of them have not even been implemented yet and most citizens, including many professionals, are still unfamiliar with them. To make a more valid judgement about their effectiveness, we will have to wait until they are more widespread and better known. To be precise, their effectiveness depends for the most part on the existence of a significant number of them, mutually reinforcing one another and pooling the effectiveness that each one is capable of contributing. In this sense, it would be essential to increase the number of existing self-regulatory mechanisms, as well as making them widely known to the general public so as to enhance their effectiveness.

Be that as it may, this is a case of a self-fulfilling prophecy. The lack of dissemination of many of these mechanisms, the fact they are unfamiliar to many professionals and citizens, alike, their scant implementation, etc., means that they are not as effective as they might be if they had a greater impact on public opinion. In turn, in the belief that these mechanisms are all but ineffectual, little attention has been paid to their function and their potential for improving social communication, all of which favours disengagement and a loss interest on the part of the public and communication professionals, alike (Real 2018).

It is necessary and urgent to break this vicious circle and convert the feedback of self-regulation into something positive. The effectiveness of self-regulation—always bearing in mind that it is not a panacea that will resolve all the problems currently posed by social communication—necessarily depends on the social communication stakeholders' commitment to becoming more involved (Glasser 2002). Let us hope that the fresh impetus that the European institutions have given to the self-regulation of communication in the past few years will have a positive multiplying effect and that we will soon see their number, social dissemination and effectiveness increase. The challenges posed by social communication in the 21st century require this if we do not want to see our societies damaged by one of their greatest assets: the unfettered dissemination of information and communication for all.

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