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**MEDIA LITERACY:
NO LONGER THE SHRINKING VIOLET OF EUROPEAN AUDIOVISUAL MEDIA
REGULATION?**

*Tarlach McGonagle**

I. INTRODUCTION

Media literacy is very much in the ascendant in European regulatory and policy-making circles at the moment, prompting the suggestion that it has now lost its erstwhile shrinking-violet status in the European audiovisual media sector. For a discussion of the term's definitions, see Section II *infra*.¹

The article will commence with a brief exploration of selected theories surrounding media literacy. More precisely, it will canvas the main rationales for promoting media literacy, definitional issues, and the groups centrally implicated in media literacy initiatives – both as target groups and as other stakeholders. The article will then identify, contextualise and scrutinise the key reference points for the promotion of media literacy in the European audiovisual regulatory and policy frameworks. Both the EU and the Council of Europe have adopted a number of legally binding and policy instruments that aim to improve media literacy levels across Europe. Finally, the article will consider the prospects for the future development of media literacy within European regulatory structures.

II. THEORETICAL APPROACHES

A. Rationales

Different rationales are advanced for the promotion of media education or literacy. According to some experts, a coherent rationale could be developed if governments were to prioritise “the three P’s of sound Public Policy:”

- Provision of media education for all their citizens;
- Participation of all their citizens in social, cultural and economic activities, and
- Protection of all citizens in need (either because of their age, their disabilities or their income).²

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¹ Discussion at note 10 *infra et seq.*

² Divina Frau-Meigs & Jordi Torrent, *Media Education Policy: Towards a Global Rationale*, in MAPPING MEDIA EDUCATION POLICIES IN THE WORLD 14, 20 (The United Nations Alliance of Civilization in co-operation with Grupo Comunicar, Divina Frau-Meigs & Jordi Torrent eds., 2009), available at <http://unesdoc.unesco.org/images/0018/001819/181917e.pdf>.

While a coherent overarching rationale might be welcome from a theoretical perspective, its absence should not and does not hamper the development of media literacy in practice. Indeed, the diversity of rationales underpinning media literacy is instructive insofar as it captures the different, cross-sectoral, multi-stakeholder interests involved.

For the purposes of this article, the main rationales for promoting media literacy have been selected and organised as follows:

- Civic participation/empowerment;
- Bridging the digital divide;
- Risk reduction/protection from harmful content;
- Informed decision-making/consumer protection.³

These rationales have achieved resonance in academic discourse and in practice. The European Broadcasting Union (an umbrella organisation representing the interests of public service broadcasters and media in Europe), for instance, has organised its Principles on Media Literacy along three main axes: “[b]ridging the digital divide,” “inform[ing] and empower[ing] citizens to democracy,” and “creating a trusted space.”⁴ The relevance of these (groups of) rationales becomes more evident after having summarised the essence of what media literacy is and involves, i.e., a critical, civic activity with important technological and ethical ramifications, is described.⁵ Many summaries exist, including the following one:

Learning to analyze news and advertising, examining the social functions of music, distinguishing between propaganda, opinion and information, examining the representation of gender, race and class in entertainment and information media, understanding media economics and ownership, and exploring ways in which violence and sexuality are depicted in media messages continue to matter as important life skills. With the rise of digital media, there are a range of important new media literacy skills, where we must consider issues of personal and social identity, the complex interplay between what’s private and what’s public, and legal and ethical issues. The powerful conceptual framework of audiences and authors, messages and meanings, representations and realities can deepen students’ reflexivity, critical thinking, and communication skills.⁶

A powerful participatory rationale underpins media literacy. Drawing on the foregoing citation, media literacy can be described as “a prerequisite for full participation in late modern society, involving as it does the critical skills of analysis and appreciation of the social dynamics and social centrality of media as framing the cultures of the everyday.”⁷ It empowers individuals and enables them to participate more fully in democratic societies, which are increasingly reliant on media and information and communication technologies (ICTs).

³ For a rich exploration of relevant issues, see generally EMPOWERMENT THROUGH MEDIA EDUC. (Ulla Carlsson et al. Eds, 2008).

⁴ *Empowering Citizenship Through Media Literacy: the Role of Public Service Media*, EUROPEAN BROAD. UNION VIEWPOINT 1 (Feb. 3, 2012), http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Publication%20Library/Viewpoint_Media_literacy.pdf.

⁵ See generally Roger Silverstone, *Regulation, Media Literacy and Media Civics*, 26 MEDIA, CULTURE, AND SOCIETY 440, esp. 447 (2004), available at http://www.infoamerica.org/documentos_pdf/silverstone06.pdf

⁶ Renee Hobbs & Amy Jensen, *The Past, Present, and Future of Media Literacy Education*, 1 JOURNAL OF MEDIA LITERACY EDUC. 1, 9 (2009).

⁷ Silverstone, *supra* note 4, at 448.

The aim to reduce or eliminate the digital divide stems from the realisation that access to digital resources and the ability to use them effectively is empowering in political, economic, social and cultural terms. Disadvantage, in terms of digital capacity, can therefore create new societal divisions or exclusions or exacerbate existing ones.

Analytical, evaluative and technological skills are required to protect against and minimise the risk of adverse consequences from exposure to harmful media content. These skills facilitate the making of “informed choices when using the Internet and other ICT’s by using and referring to diverse media forms and content from different cultural and institutional sources; understanding how and why media content is produced; critically analysing the techniques, language and conventions used by the media and the messages they convey; and identifying media content and services that may be unsolicited, offensive or harmful.”⁸ Similarly, by facilitating informed decision-making about media content, these skills can also enhance awareness, alertness and consumer protection.

The process of forging a definition of media literacy necessarily draws on the rationales for and objectives of media literacy. The consideration of its objectives sometimes includes an itemisation of the competences that media literacy seeks to develop, as in the Preamble to the EU’s Audiovisual Media Services Directive,⁹ or in the civil society initiative that culminated in the drafting of the European Charter for Media Literacy. According to this Charter, media-literate people “should be able to:

- Use media technologies effectively to access, store, retrieve and share content to meet their individual and community needs and interests;
- Gain access to, and make informed choices about, a wide range of media forms and content from different cultural and institutional sources;
- Understand how and why media content is produced;
- Analyse critically the techniques, languages and conventions used by the media, and the messages they convey;
- Use media creatively to express and communicate ideas, information and opinions;
- Identify, and avoid or challenge, media content and services that may be unsolicited, offensive or harmful;
- Make effective use of media in the exercise of their democratic rights and civic responsibilities.¹⁰

In the same vein, some experts refer to “the 6 C’s of the Competences for media education: Comprehension, Critical Capacity, Creativity, Consumption, Citizenship and Cross-Cultural Communication.”¹¹

The integration of the many diverse elements discussed in this section into a definition of media literacy is no easy task, as will duly be explained.

B. Definitional Difficulties

⁸ *Recommendation of the Committee of Ministers to Member States on Measures to Promote the Public Service Value of the Internet*, 1010th Sess., Rec. No. R 16 (2007), available at <https://wcd.coe.int/ViewDoc.jsp?id=1207291>.

⁹ See *infra* note 33.

¹⁰ *The European Charter for Media Literacy*, EUROMEDIA LITERACY, para. 2, available at <http://www.euromedialiteracy.eu/charter.php>.

¹¹ Frau-Meigs & Torrent, *supra* note 1, at 20-21.

On the back of the foregoing general introduction, it is useful to dwell on the question of how media literacy is defined, because, as noted by a leading authority on the subject, Sonia Livingstone, it “has consequences for the framing of the debate, the research agenda and policy initiatives.”¹²

The term, media literacy, has so far proved somewhat resistant to a fully consensual definition.¹³ It means different things to different people in different sectors. As Livingstone notes, “confusion” tends to arise when a given term is used “across diverse disciplines.”¹⁴ There is not even agreement on the superiority of the term to other adjacent terms, like media education or media literacy education. Different terms, reflecting different priorities, rationales and emphases, have been in vogue during different periods of scholarship and policy-making.¹⁵ Whereas terminological choices usually result from considered calculation, they can also, on occasion, result from the convenience of convention. For the purposes of this article, the term media literacy will be used as consistently as possible because it is the term preponderantly used in key regulatory texts at the European level.¹⁶

The difficulty in defining the term media literacy stems partly from its compound nature: it comprises two discrete terms, each of which is definitionally resistant in its own right. A recurrent question in scholarship and in policy-making circles concerns the scope of the term media. Increasingly, in the context of media literacy (at least), the term media is taken to be an inclusive term, covering all types of media. In light of the contemporary reality of media convergence, an inclusive understanding of media seems logical. An integrated approach to media literacy would therefore also seem logical: “With the rapid growth of ICTs and the resulting convergence of new and traditional media, it is necessary that media and information literacy be considered holistically and applied to all forms of media, regardless of their nature and the technologies used.”¹⁷

Nevertheless, partly in recognition of the different functionalities of the plethora of media operating today, it is debatable whether a unified form of “literacy” can be considered appropriate. Distinctions are frequently made between media, digital and other types of literacy (e.g. search engine literacy).¹⁸ These distinctions reflect, amongst other things, the different nature and functionality of various media types. Following this horses-for-courses logic, it can be argued that different literacies are required. As explored below, there is a marked tendency in European-level regulatory and policy-making circles to accentuate the need for literacy in respect of digital or online

¹² Sonia Livingstone, *Media Literacy and the Challenge of New Information and Communication Technologies* 7 COMM. REV. 3, 5 (2004), available at <http://eprints.lse.ac.uk/1017/1/MEDIALITERACY.pdf>.

¹³ For more on scholarly and civil society approaches to the term “media literacy” see W. James Potter, *The State of Media Literacy*, 54 J. BROAD. AND ELECTRONIC MEDIA 675, 676 (2010).

¹⁴ Livingstone, *supra* note 10, at 5.

¹⁵ For an overview see Hobbs & Jensen, *supra* note 5.

¹⁶ For example, see *infra* note 31.

¹⁷ Abdul Waheed Khan, *Foreword to MAPPING MEDIA EDUC. POLICIES IN THE WORLD 9-10* (Divina Frau-Meigs & Jordi Torrent eds., 2009).

¹⁸ “Search engine literacy” was included as a sub-set of *media literacy* in para. 19 of the *Recommendation of the Committee of Ministers to Member States on the Protection of Human Rights With Regard to Search Engines, 1139th Sess. Rec. No. R. 3* (2012), available at [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2012\)3&Language=lanEnglish&Ver=original&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2012)3&Language=lanEnglish&Ver=original&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383).

media, due to the newness, relative complexity, and unfamiliarity of the underlying technologies for many people. This implies that strategies to develop literacy have to engage the relationship between technology and media dynamics, uses, and effects.

It is also useful to pry open the term *literacy* and group the main understandings of the term. Some approaches emphasise that the primary aim of media literacy is to increase skills, build knowledge, or both.¹⁹ Media literacy is also perceived as an activity or a “political, social, and cultural practice.”²⁰ As recalled from the previous section, media literacy can also be described as a critical activity and a civic activity with moral underpinnings.²¹

Notwithstanding all of the aforementioned definitional difficulties, a definition of media literacy has been developed and widely endorsed in academic, regulatory and policy-making circles. Drawing on the work of others, Livingstone synthesises “media literacy” as “the ability to access, analyze, evaluate, and create messages in a variety of forms.”²² These four components of the definition point to: (i) the natural affinity of media literacy with questions of technological access to media content; (ii) the centrality of critical, i.e., analytical and evaluative skills needed to interpret and process media content, and (iii) the complementary nature of first-hand experience of production and content-creation as a learning tool to enhance relevant critical competences.²³ Livingstone describes this as a “nonlinear, dynamic learning process” in which each component supports the others: “Learning to create content helps one to analyze that produced professionally by others; skills in analysis and evaluation open the doors to new uses of the Internet, expanding access, and so forth.”²⁴ Very significantly, the definition of media literacy relied upon by the European Commission closely resembles Livingstone’s synthesised definition.

C. Key Target Groups and Constituents

Bearing in mind the four main rationales for the promotion of media literacy outlined above, a number of target groups can be identified: children/minors; adolescents; parents; the public; the elderly; persons with disabilities; linguistic minorities; the socially and economically deprived; media users; consumers; etc.

There is a clear tendency to prioritise children/minors (and parents – by virtue of their relationship to children). The protection and empowerment aims underlying that prioritisation sometimes also include adolescents. Relevant strategies tend to focus on both formal, informal (e.g. in the home) and non-formal (e.g. awareness campaigns outside of school and the home) education.

When measures promoting media literacy target other groups, strategies often differ. For instance, when targeting general members of the public, lifelong/ongoing and non-formal educational measures are likely to be preferred to formal educational measures. The public is, however, a very

¹⁹ Potter, *supra* note 11, at 679.

²⁰ *Id.* at 680.

²¹ Silverstone, *supra* note 4, at 447 [this is actually on page 15 of document cited in the URL cited above].

²² Livingstone, *supra* note 10, at 3 .

²³ For a detailed exploration of the interface between media literacy and user-generated content from a broadcasting perspective see Martin Scott, GUIDELINES FOR BROADCASTERS ON PROMOTING USER-GENERATED CONTENT AND MEDIA AND INFO. LITERACY (Commonwealth Broadcasting Assoc. & UNESCO, 2009).

²⁴ Livingstone, *supra* note 10, at 5.

diffuse term. It can therefore be useful to identify particular subsets of the public that have a heightened need to acquire media literacy. The elderly, persons with disabilities and those suffering from socio-economic disadvantage are all recognised as having particular needs in respect of the various components of the definition of media literacy and based on the various rationales for promoting media literacy: civic participation/empowerment, reduction of (informational) inequalities, protection, informed decision-making.

It is important to reflect upon the extent to which the specific needs of these groups are meaningfully catered to by existing regulatory and institutional frameworks, processes and initiatives to promote media literacy at the European and national levels. This question will be revisited, after having examined the approach taken by the European Union and the Council of Europe, in the section, “Outlook,” below.

Media literacy has a broad constituency that extends well beyond its most obvious target groups. Stakeholders typically include: regulatory authorities; policy-makers; administrative authorities; media organisations and professionals; educational institutions and professionals; civil society interest groups, etc. The involvement of stakeholders stretches from the international level to the most local level. The roles of stakeholders vary enormously, depending on the nature of a given measure, its aim(s) and target group(s), the context in which it is employed, etc.

An excellent illustration of the multiplicity and interconnectedness of themes, target groups and stakeholders is provided by the Dutch media literacy expertise centre/network, Mediawijzer.net.²⁵ It has developed an interactive Media Literacy map that is an adaptation of a subway map, with stakeholders²⁶ dotted along the main thematic lines, often intersecting.²⁷ This map is divided into three main sections, each of which is divided into sub-sections:

Media Use & Creation	Social Participation	Innovation
Information and strategic skills	Identity management	Innovation
Practical skills	Empowerment	
Media consciousness	Copyright	
Responsible use and safety		

The target groups, which are divided into “primary groups” (children, youth, parents, teachers) and “secondary groups” (everyone/citizens, civil society, media professionals, elderly, the socially disadvantaged, leaders), form the stops. By clicking on the stops, the user is transferred to the relevant information linked to the specific target group and sub-category.

²⁵ For an overview of the centre/network see *Expertise centre for media literacy*, MEDIAWIJZER, <http://www.mediawijzer.net/about-mediawijzer>; See also Freek Ingen Housz, “Dutch Policy on Media Literacy and Digital Skills”, in Susanne Nikoltechev, Ed., *Media Literacy, op. cit.*, pp. 39-43.

²⁶ The stakeholders featured on the map are children, youth, parents, teachers, leaders, civil society, media professionals, everyone/citizens, and the socially disadvantaged.

III. NORMATIVE APPROACHES AT THE EUROPEAN LEVEL

It is important to note the particular (de-)regulatory context in which the promotion of media literacy has recently come to the fore in Europe. The promotion of media literacy has traditionally often been coupled with the aim of preventing or minimising “negative media effects.”²⁸ This explains its prominence in the broader policy discourse about the protection of minors, especially in an online environment.²⁹ It also explains the EU’s promotion of media literacy in respect of commercial communications.

The emergence of the promotion of media literacy as a policy and regulatory goal has also coincided with strong deregulatory trends. In such a context, educational measures are presented as alternatives to regulation. Writing in 2004, Roger Silverstone opined that “[v]ery little critical attention ha[d] been given either to [media] literacy or [media] civics as an alternative to the blunderbuss of media regulation, or to the possibility of developing an ethical agenda which would inform such a project”.³⁰ More recently, regulatory emphases on media literacy have been criticised by various expert commentators as being proxies for content regulation seeking to minimise the effects of harmful media content.³¹ The criticism is that the promotion of media literacy has been used to make the deregulatory thrust more palatable to those concerned about the protection of individual fundamental rights and interests. The onus for the prevention of harm is shifted, the argument runs, from public institutions to the private sphere.³² Jackie Harrison and Lorna Woods capture the dilemma well when they observe that:

[R]eliance on information technology and the viewer not only changes the relationship between the viewer and the regulatory system but may result in some viewers failing to make active choices, instead relying on the default positions programmed in by the technology. Regulation has been devolved to the viewer, but in this instance, in effect, returns to an industry player. An industry player, however, might not have primary regard to the public interest (which is at least what regulators claim to do) or to the needs of citizen viewers.³³

²⁸ Potter, *supra* note 11, at 690.

²⁹ See *Safer Internet Programme: Empowering and Protecting Children Online*, EUROPEAN COMMISSION’S INFO. SOC’Y THEMATIC PORTAL, http://ec.europa.eu/information_society/activities/sip/index_en.htm (Demonstrating the centrality of the goal of promoting media literacy in the European Commission’s Safer Internet Programme); See also *EU Kids Online*, LSE MEDIA AND COMMUNICATIONS, <http://www.eukidsonline.net> (last updated March 29, 2012) (Describing the work of the thematic network funded by the Programme EU Kids Online II); See also Recommendation of the European Parliament and the Council on the Protection of Minors and Human Dignity and on the Right of Reply in Relation to the Competitiveness of the European Audiovisual and On-Line Information Services Industry 2006 O.J. (L 378) 72 (EU), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:378:0072:0077:EN:PDF>.

³⁰ Silverstone, *supra* note 4, at 447.

³¹ See Divina Frau-Meigs, *L’éducation aux médias est-elle nécessaire? A quelles conditions?*, Les e-Dossiers de l’audiovisuel, INA Sup (January 2011), <http://www.ina-sup.com/node/1591>; See also Brian O’Neill, *Current Policy Developments in European Media Literacy*, 6 INT’L JOURNAL OF MEDIA AND CULTURAL POLITICS 235, 237 (2010).

³² Brian O’Neill, *Media Literacy and Communication Rights: Ethical Individualism in the New Media Environment*, 72 INT’L COMM. GAZETTE 323, 325 (2012).

³³ Jackie Harrison & Lorna Woods, *European Broad. Law and Policy*, 241 (Cambridge University Press, 2007).

Silverstone's enthusiasm for media literacy as an alternative to regulation and scepticism about the manner in which media literacy is currently being promoted in regulatory frameworks are not necessarily mutually exclusive. What Silverstone had in mind was a well thought-out, multi-stranded approach to be developed progressively. The criticism of the current regulatory approach that media literacy has been devised as a quick fix in an accelerated deregulatory process does not rule out the suitability of a well-calibrated approach promoting media literacy. That goal is a real and legitimate challenge for the future development of the media literacy agenda, as will be discussed below. Meeting that challenge head-on requires an appreciation of the potential *and* limitations of media literacy. It has been noted, for instance, that "moves to foster critical media literacy will not, of themselves, be enough to eliminate the various detrimental aspects of content provision, such as gratuitous violence in the media, the breach of consumer rights by media services, the lack of authenticity and validity, and manipulation."³⁴

A. *European Union*

1. Audiovisual Media Services Directive

In the Introduction to this article, it was hinted that recent regulatory developments have been decisive in altering the perceived status of media literacy in the European regulatory framework. A major regulatory development was the explicit inclusion of media literacy in the Audiovisual Media Services Directive (AVMSD).³⁵ Alongside the AVMSD, media literacy has been steadily growing in prominence on the EU agenda in recent years, and in particular on the agendas of the European Commission, European Parliament, Council of the European Union and Committee of the Regions, so much so that it can now be said to have reached the high-ground of policy-making for the European audiovisual sector.³⁶

The term *media literacy* is introduced and partially explained in Recital 47 of the Preamble to the AVMSD:

'Media literacy' refers to skills, knowledge and understanding that allow consumers to use media effectively and safely. Media-literate people are able to exercise informed choices, understand the nature of content and services and take advantage of the full range of opportunities offered by new communications technologies. They are better able to protect themselves and their families from harmful or offensive material. Therefore the development of media literacy in all sections of society should be promoted and its progress followed closely. The Recommendation of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry [footnote omitted] already contains a series of possible measures for promoting media literacy such as, for example, continuing education of teachers and trainers, specific Internet training aimed at children from a very early age, including sessions open to parents, or

³⁴ Committee of the Regions, Opinion on Regional Perspectives in Developing Media Literacy and Media Educ. in EU Educational Policy, 2010 O.J. (C141) 16, para. 18.

³⁵ See Directive 2010/13 of the European Parliament and of the Council on the Coordination of Certain Provisions Laid Down By Law, Regulation or Administrative Action in Member States Concerning the Provision of Audiovisual Media Services, 2010 O.J. (L95) 2 (EU).

³⁶ O'Neill, *supra* note 30, at 324.

organisation of national campaigns aimed at citizens, involving all communications media, to provide information on using the Internet responsibly.³⁷

The introduction and explanation are heavily coloured by relevant EU priorities. The Recital underscores the potential of media literacy to “allow consumers to use media effectively and safely,” enable “people” to “exercise informed choices,” and better enable them to “protect themselves and their families from harmful or offensive material.”³⁸ These examples of the value of media literacy together prompt a call for its development to be promoted in “all sections of society.”³⁹

Recital 47 also calls for progress in the development of media literacy to be “followed closely” and thereby sets up a new reporting obligation for the European Commission. The obligation is provided for in the first sentence of Article 33 of the Directive, as follows:

Not later than 19 December 2011, and every 3 years thereafter, the Commission shall submit to the European Parliament, to the Council and to the European Economic and Social Committee a report on the application of this Directive and, if necessary, make further proposals to adapt it to developments in the field of audiovisual media services, in particular in the light of recent technological developments, the competitiveness of the sector and levels of media literacy in all member states.

This reporting obligation is unusual because the Directive does not create any (substantive) obligation on EU Member States to promote media literacy. In other words, the Commission is obliged to report periodically on “levels of media literacy in all member states,” but there is no prior, formal obligation on Member States to improve levels of media literacy. The cyclical nature of the envisaged reporting could facilitate a close following of progress in the development of media literacy across member states, but the first report, issued in May 2012, provided only very scant information. It revealed that 28% of the EU's population has a basic level of critical understanding, 41% a medium level and 31%, an advanced level.⁴⁰

2. Commission Communication

The European Commission adopted its Communication, titled “A European approach to media literacy in the digital environment,” in December 2007.⁴¹ The European Parliament had earlier called

³⁷ See Directive 2010/13 of the European Parliament and of the Council on the Coordination of Certain Provisions Laid Down By Law, Regulation or Administrative Action in Member States Concerning the Provision of Audiovisual Media Services, 2010 O.J. (L95) 2.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ First Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Application of Directive 2010/13/EU “Audiovisual Media Services Directive”, COM(2012) 203 final, 4 May 2012, p. 10. These statistics are based on monitoring conducted during the reference period for the report, 2009-2010: Danish Technological Institute and European Association for Viewers’ Interests, *Testing and Refining Criteria to Assess Media Literacy Levels in Europe*, April 2011.

⁴¹ *Communication from the Committee to the European Parliament, the Council, the European Economic and Social Committee and the Comm. of the Regions, A European Approach to Media Literacy in the Digital Environment*, COM (2007) 833 final (Dec. 20, 2007) (“A European Approach To Media Literacy in the Digital Environment”).

on the Commission to adopt a Communication on education in media.⁴² The adoption of the Communication also followed the establishment of an Expert Group on Media Literacy and a public consultation on media literacy in 2006.⁴³

The Communication states that media literacy is “generally defined as the ability to access the media, to understand and to critically evaluate different aspects of the media and media contents and to create communications in a variety of contexts.”⁴⁴ As already mentioned above, this definition resonates with the definition synthesised by Sonia Livingstone, thereby making for a measure of consistency across academic and policy approaches at the European level. The Communication states that a “European approach to media literacy should relate to all media” and identifies various levels of media literacy: “feeling comfortable with all existing media;” “actively using media;” “having a critical approach to media;” “using media creatively;” “understanding the economy of media and the difference between pluralism and media ownership,” and “being aware of copyright issues which are essential for ‘a culture of legality.’”⁴⁵

An important section of the Communication, entitled “media literacy in the digital environment – good practices,” concentrates on three areas: commercial communication, audiovisual works and online. The three focus areas are designed to organise and group relevant priorities.

The Communication concludes by calling on member states to:

- encourage greater involvement by the authorities in charge of audiovisual and electronic communication regulation in the improvement of the various identified levels of media literacy;
- “promote systematic research into and regular observation of and reporting on the different aspects and dimensions of media literacy;”
- “develop and implement codes of conduct and, as appropriate, co-regulatory frameworks in conjunction with all interested parties at national level, and promote self-regulatory initiatives.”⁴⁶

The Communication was welcomed by the Council of the European Union as “a further building block to European audiovisual policy.”⁴⁷ The Council endorsed the Commission’s linking of media literacy to “active citizenship in today’s information society.”⁴⁸ It recognised the diversity of efforts undertaken in member states to promote media literacy and the importance of identifying and promoting relevant best practices, partly against the absence of “common criteria and indicators for measuring media literacy.”⁴⁹ The importance of education, training and teacher-training are also

⁴² Report on the transition from analogue to digital broadcasting: an opportunity for European audiovisual policy and cultural diversity (2005/2212 (INI)), European Parliament Committee on Culture and Education (Rapporteur: Henri Weber), Doc. No. A6-0075/2006, 23 March 2006, para. 9.

⁴³ See generally *Media Literacy Consultation*, EUROPEAN COMM’N, http://ec.europa.eu/culture/media/literacy/act_prog/consultation/index_en.htm.

⁴⁴ See European Parliament Resolution on Media Literacy in a Digital World, EUR. PARL. DOC. INI 2129 (2008) at 3.

⁴⁵ *Id.* at 4.

⁴⁶ *Id.* at 8-9.

⁴⁷ Council Conclusions on a European Approach to Media Literacy in the Digital Environment, 2008 O.J. (C140) 8 (EU).

⁴⁸ *Id.*

recognised. Finally, the Council invited member states to take further action, echoing the three conclusions of the Communication, and additionally emphasising the need for a multi-stakeholder approach, the usefulness of awareness-raising strategies and the desirability of integrating media literacy into lifelong learning strategies.⁵⁰

3. Commission Recommendation

The Commission's Recommendation on media literacy in the digital environment for a more competitive audiovisual and content industry and an inclusive knowledge society, adopted in 2009,⁵¹ follows the same definition of media literacy as the Communication.⁵² The essence of the Recommendation is directly addressed to member states and the media industry – and surprisingly, perhaps, not the educational sector, as such. The recommendations for member states are envisaged as being “in cooperation with the authorities in charge of audiovisual and electronic communication regulation and in collaboration with supervisory data protection authorities where appropriate.”⁵³ The recommendations focus on co- and self-regulatory initiatives, continued research, educational measures (including lifelong learning) and awareness-raising activities. For their part, the recommendations for the media industry focus on information-provision and awareness-raising strategies.

Like the Commission's Communication, the Recommendation elicited a number of responses from other EU bodies. The Conclusions of the Council of the European Union on Media Literacy in the Digital Environment welcomed the Recommendation and stressed as additional considerations: *inter alia*: the multi-dimensional nature of efforts to promote media literacy (including self- or co-regulatory initiatives); the relevance of different levels of access to, and understanding of, media and new communicative technologies and the relevance of different educational models for promoting media literacy.⁵⁴

It also recognised one of the key ambiguities about the development of media literacy: while it is clear that it “is a dynamic and evolving concept and that common understanding of the concept is affected by cultural, technological, industrial and generational differences, it is also clear that, with the development of a global internet as a key part of the communications infrastructure, the citizens of Europe and of the rest of the world are increasingly facing and living in a media landscape with similar features.”⁵⁵ As such, the progressive development of criteria to assess levels of media literacy in member states should also reflect differentiated approaches at state-level.

4. European Parliament

⁴⁹ *Id.* at 9.

⁵⁰ *Id.*

⁵¹ *Recommendation on Media Literacy in the Digital Environment for a More Competitive Audiovisual and Content Industry and an Inclusive Knowledge Society*, COM (2009) 6464 final (Aug. 20, 2009).

⁵² *Id.* at 3-4.

⁵³ *Id.*

⁵⁴ Conclusions of the Council of the European Union on Media Literacy in the Digital Environment, 27 November 2009.

⁵⁵ *Id.* at 3.

The European Parliament provided a very structured and detailed examination of media literacy issues in its 2008 Resolution on media literacy in a digital world.⁵⁶ It first inventoried key European and international (e.g. UNESCO) regulatory and policy reference points for media education and literacy. It then placed media literacy and its importance in current-day societal and communicative contexts, before setting out key principles for the promotion of media literacy. Among the key principles, there is attention for the role of regulatory authorities for audiovisual and electronic communications to cooperate at various levels to improve media literacy (levels) as part of a broader multi-stakeholder approach involving the development of codes of conduct and common regulatory initiatives.⁵⁷ A wide range of stakeholders are identified: journalists, broadcasters and media organisations, as well as, importantly: “libraries, adult education centres, citizens’ cultural and media centres, further education and training establishments and citizens’ media (e.g. community media).”⁵⁸ A call is made on the Commission, in the context of Article 33, AVMSD, to devise media literacy indicators “with a view to fostering media literacy in the EU in the long term.”⁵⁹ The critical, communicative and creative skills inherent in media literacy are dwelt upon,⁶⁰ before its importance for intellectual property rights, consumer information, democratic participation and the promotion of intercultural dialogue is noted.⁶¹

A focus on aims and target groups followed, and then an exploration of access questions and educational angles, e.g. in schools, as part of teacher training and for the elderly. One of the specific listed aims of media education is to “shed light on copyright aspects of media use and on the importance of respecting intellectual property rights, in particular regarding the Internet, as well as on data and privacy security and the right of informational self-determination.”⁶²

5. The Committee of the Regions

The Committee of the Regions, one of the EU bodies to which the Commission’s Communication was formally addressed, has also responded to the Communication and engaged in other ways with issues surrounding media literacy.

In its Opinion on “Media Literacy” and “Creative Content Online”⁶³ the Committee stressed that the reporting exercise envisaged under Article 33, AVMSD,⁶⁴ and other related activities “must allow for the differences and progress made in media literacy at regional level in Europe and provide examples of good practice by local and regional authorities and other stakeholders.”⁶⁵ It underscored

⁵⁶ *Supra note 42.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ Opinion of the Committee of the Regions on Media Literacy and Creative Content Online, 2008 (CdR 94).

⁶⁴ In the original text, reference is made to Article 26, AVMSD, which was previously the operative provision.

⁶⁵ *Id.*

the vital role that can be played by local and regional authorities in developing educational and other collaborative projects on media literacy, targeting a variety of groups, “especially children and young people, the disabled and social groups that are at risk of exclusion.”⁶⁶

In its Opinion on regional perspectives in developing media literacy and media education in EU educational policy, the Committee reaffirmed the role of local and regional authorities in respect of media literacy.⁶⁷ It also stressed the importance of media literacy from a consumer rights perspective. It also tapped into one aspect of the debate outlined in the section of definitional difficulties, above, by highlighting that “a clear and substantive distinction must be made between the main components of media literacy, because the development of each component requires its own strategy, players and resources.”⁶⁸

6. Miscellaneous Developments

Finally, three recent developments which are likely to influence the future promotion of media literacy within the European Commission also deserve mention: (i) the conclusion of the activities of the Media Literacy Expert Group; (ii) the transfer of responsibility for the development of media literacy from the Commission’s Directorate-General for Information Society and Media to its Directorate-General for Education and Culture, and (iii) the explicit inclusion of “Enhancing digital literacy, skills and inclusion” as a key prong of the Commission’s Digital Agenda for Europe.⁶⁹

First, following requests by the European Parliament,⁷⁰ industry players and a number of member states, the European Commission established the Media Literacy Expert Group:

To analyse and define media literacy objectives and trends, to highlight and promote good practices at European level and propose actions in the field. In particular, certain issues should be highlighted such as the importance of promoting the protection of children, young people and human dignity in the media and support the creation of a media environment appropriate for citizens’ social, educational and cultural needs. Also, working on the development of reliable means of evaluation is fundamental.⁷¹

The Expert Group, which comprised European media literacy experts from a variety of backgrounds, held its first meeting in March, 2006 and its tenth and final meeting in December 2010.⁷² Having been involved in the preparation of the Commission’s Communication and Recommendation on media literacy, the Expert Group was adjudged by the Commission to have

⁶⁶*Id.*

⁶⁷ Opinion of the Committee of the Regions on regional perspectives in developing media literacy and media education in EU educational policy, 2010 O.J. (C 141) 16, 29 May 2010.

⁶⁸ *Id.*

⁶⁹ *Digital Agenda for Europe*, EUROPEAN COMMISSION’S INFORMATION SOCIETY, *Media Literacy Expert Group*, http://ec.europa.eu/information_society/digital-agenda/index_en.htm.

⁷⁰ See Report on the transition from analogue to digital broadcasting: an opportunity for European audiovisual policy and cultural diversity (2005/2212 (INI)), European Parliament Committee on Culture and Education, *supra* note 40.

⁷¹ *Supra* note 67.

⁷² See generally *The EU Media Literacy Expert Group 2006-2010*, EUROPEAN UNION, available at: <http://www.nordicom.gu.se/cl/publ/letter.php?id=138#The%20EU%20Media%20Literacy%20Expert%20Group%202006%20-%202010>.

fulfilled its objectives and completed its work, which led to the decision to discontinue its activities. The Expert Group provided a valuable forum in which various aspects of media literacy could be discussed; its access to the Commission also facilitated the political development of the media literacy agenda. It is too early yet to speculate on how the absence of such an expert forum will impact on the further development of media literacy at the European level. There had been earlier calls for the Audiovisual Media Services Directive's Contact Committee to do more work on media literacy.⁷³

In addition, as with the previous development, it is still too soon to predict what the likely consequences of the "re-location" of media literacy under DG Education and Culture will be. Whereas this could suggest an intention to embed media literacy more firmly in an educational approach, it does not necessarily imply that the topic will be sidelined from media regulatory policy. This also houses it alongside the EU's MEDIA Programmes,⁷⁴ which is interesting in light of earlier calls for a "specific strand on media literacy" to be included in future MEDIA Programmes.⁷⁵

Finally, the Commission's Communication, *A Digital Agenda for Europe*, states that the "digital era should be about empowerment and emancipation; background or skills should not be a barrier to accessing this potential."⁷⁶ As noted in the section titled Definitional Difficulties above, digital literacy is not identical to media literacy but the terms do interface in some important ways (*See supra* p. 6). The shared objective of avoiding or reducing social and other forms of exclusion is relevant in this connection. The inclusion of the item "Enhancing digital literacy, skills and inclusion" in the Communication prepares the ground for further EU-level cross-institutional action in the field.⁷⁷

B. Council of Europe

It was noted in the Introduction that there is considerable terminological variety in discussions of media literacy. This observation is borne out by Council of Europe standard-setting texts with focuses on media literacy. An astonishing array of different terms is used across those texts, including: visual literacy, audiovisual literacy, mass-media education, media education, media literacy, information literacy, media (and information) literacy and digital literacy. Notwithstanding this high incidence of terminological variation, there is a broad overall congruence to the texts in question, as relevant provisions for the promotion of media literacy are based on a few distinct rationales (see further, *infra*).

1. European Ministerial Conferences on Mass/New Media Policy

⁷³ Council Conclusions on a *European Approach to Media Literacy in the Digital Environment*, 2008 O.J. (C140) 8 (EU), *supra* fn. 48?

⁷⁴ *See generally* European Commission, MEDIA, http://ec.europa.eu/culture/media/index_en.htm (Summarizing the MEDIA Programmes).

⁷⁵ *Opinion of the Committee of the Regions on Media literacy and Creative Content Online*, 2008 O.J. (C 325) 70 (EU); *See also* *Resolution on Media Literacy in a Digital World*, EUR. PARL. DOC. INI 2129 (2008).

⁷⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A Digital Agenda for Europe*, at 24, COM (2010) 245 Final (May 19, 2010) (EC).

⁷⁷ *Id* at 26-27.

European Ministerial Conferences on Mass Media Policy have been held periodically since the mid-1980s. Those conferences involved the participation of ministers (or their delegates) with relevant portfolios at national level. As such, the Ministerial Conferences can be distinguished from the day-to-day activities of the Council of Europe. Their relevance stems from their purpose to map out future European media policy, supplemented by action plans for its implementation.

The promotion of media education or literacy has been an intermittently recurrent agenda item at these European Ministerial Conferences. Resolutions adopted at the first two conferences called briefly for the development of media education (and “a critical awareness”) as an integral part of the tasks of general education⁷⁸ and among viewers,⁷⁹ without further elaboration. Resolutions adopted at the third and fifth conferences focused on media education targeting the public at large and in respect of new communications technologies and information services, again without any real elaboration.⁸⁰ For its part, the sixth conference identified “media education and media literacy in new services” as instrumental for “developing a critical and discerning attitude towards media content, as well as ensuring greater awareness by individuals concerning the opportunities offered and challenges posed by these services and thus contributing to greater social cohesion.”⁸¹

It was only at the seventh ministerial conference, “Integration and diversity: the new frontiers of European media and communications policy,” held in Kyiv (Ukraine) in 2005, that media literacy was explored in slightly more detail.⁸² In the context of the aim of enhancing protection of minors, media literacy is put forward as a way of helping children “benefit from the positive aspects of the new communication services and avoid exposure to harmful content.”⁸³ The Action Plan adopted at the conference advocates the promotion of media literacy in respect of all media and at all stages of education and ongoing learning.⁸⁴

At the first Conference of Ministers responsible for Media and New Communication Services (in 2009, the ministerial conference was titled and calibrated differently in order to reflect changing notions of the media),⁸⁵ media literacy featured in the Resolution entitled “Towards a new notion of

⁷⁸ Council of Europe, *Media Division Directorate General of Human Rights*, EUROPEAN MINISTERIAL CONFERENCES ON MASS MEDIA POLICY: TEXTS ADOPTED, 16 (2006), [http://www.coe.int/t/dghl/standardsetting/media/doc/DH-MM\(2006\)004_en.pdf](http://www.coe.int/t/dghl/standardsetting/media/doc/DH-MM(2006)004_en.pdf).

⁷⁹ *Id.* at 15.

⁸⁰ *See id.* at 27-29; *see also id.* at 54-57.

⁸¹ *Id.* at 67.

⁸² 7th European Ministerial Conference on Mass Media Policy Kyiv, 10-11 March 2005, COUNCIL OF EUROPE, <http://www.coe.int/t/e/com/files/ministerial-conferences/2005-kyiv/>.

⁸³ Eur. Consult. Ass., *Integration and diversity: the new frontiers of European media and communications policy*, 7th European Ministerial Conference on Mass Media Policy, Resolution 3 (2005), available at http://www.ebu.ch/CMSimages/en/leg_ref_coe_mcm_media_policy_100305_tcm6-36861.pdf.

⁸⁴ Eur. Consult. Ass., *Action Plan*, 7th European Ministerial Conference on Mass Media Policy, Sub-theme 3, para. 4 (2005) (Discussing human rights and regulation of the media and new communication services in the Information Society).

⁸⁵ COUNCIL OF EUROPE, *A New Notion of Media? Political Declaration and Resolutions*, 1st Council of Europe Conference of Ministers Responsible for Media and New Communication Services (May 28-29, 2009), available at [http://www.coe.int/t/dghl/standardsetting/media/MCM\(2009\)011_en_final_web.pdf](http://www.coe.int/t/dghl/standardsetting/media/MCM(2009)011_en_final_web.pdf); *See also* Tarlach McGonagle & Kim de

media” and in its corresponding Action Plan.⁸⁶ The Resolution identifies media literacy as “essential” in the context of a people-centred, participatory, multi-stakeholder approach to the new media environment.⁸⁷ The Resolution calls for the recognition of media literacy “as part of the education for democratic citizenship” and describes it as “a particularly important tool in optimising children’s and young people’s comprehension, critical thinking, citizenship, creativity and critical awareness of the media.”⁸⁸ It views media literacy as a way to make people “critical, competent and responsible” in their use of media and media-like services.⁸⁹ The Action Plan seeks to pursue work on media literacy in consultation with a range of stakeholders, including education specialists, “with the aim of making users, creators and distributors of content (in particular children and young people) responsible, informed and critical participants in the information society.”⁹⁰ Non-formal education and the role of the media are mentioned as meriting attention in relevant strategies.

The above overview of relevant provisions in policy texts adopted at periodic ministerial conferences on mass/new media suggests that there has only been limited engagement with media literacy to date. Relevant provisions prioritise children as a target group. They favour formalising media education within broad educational settings, but also acknowledge the relevance of non-formal and lifelong/ongoing education. They underscore the importance of multi-stakeholder approaches. These summary priorities and observations are unpacked in various texts adopted by the Committee of Ministers and the Parliamentary Assembly.

2. Committee of Ministers

The objective of promoting media literacy is adverted to, with varying levels of emphasis, in several of the standard-setting texts adopted by the Committee of Ministers. The following table provides an overview of selected Committee of Ministers texts containing focuses on media literacy:

Year	Title	Focus	Para.
1985	Recommendation No. R (85) 8 on the conservation of the European film heritage	Relevance of film heritage for “mass-media education” and “studies in universities and research institutes”	Preamble
1997	Recommendation No. R (97) 19 on the portrayal of violence in the electronic media	Responsibilities of different sectors of society for promoting and providing media education; responsibility of parents and teachers for stimulating children and adolescents to develop a	Guidelines Nos. 2, 4.

Beer, *A Brave New Media World*, MEDIAFORUM, 146-156 (2010), available at http://www.ivir.nl/publicaties/mcgonagle/Mediaforum_2010_5.pdf.

⁸⁶ A New Notion of Media? Political Declaration and Resolutions, *supra note* 87, at 7.

⁸⁷ *Id.* at 4.

⁸⁸ *Id.* at 5.

⁸⁹ *Id.* at 6.

⁹⁰ *Id.* at 8.

Media Law & Policy

		critical attitude, e.g. through media education within the family and in schools; shared responsibility for media education (states, those responsible for content, various sectors of society)	
2003	Recommendation Rec(2003)9 on measures to promote the democratic and social contribution of digital broadcasting	Media literacy as a key factor in reducing risk of digital divide; special mention of the elderly and the less advantaged sectors of the population	8
2006	Recommendation Rec(2006)12 on empowering children in the new information and communications environment	Structured educational approach from an early age; identification of specific harms, disaggregation of multi-stakeholder approach	Numerous preambular and substantive paragraphs.
2007	Recommendation CM/Rec(2007)2 on media pluralism and diversity of media content	Promotion of digital media literacy to bridge the digital divide	2.2
2007	Recommendation CM/Rec(2007)3 on the remit of public service media in the information society	Public service media's central role in education, media literacy and lifelong learning	21
2007	Recommendation CM/Rec(2007)11 on promoting freedom of expression and information in the new information and communications environment	Particular importance of media education in empowering individual users in the new information and communications environment	Section I of Guidelines
2007	Recommendation CM/Rec(2007)16 on measures to promote the public service value of the Internet	Policies to protect/enhance the right to education, incl. media and information literacy; promotion of media and information literacy in formal and non-formal education sectors for children and adults (to empower them in their use of media technologies; encourage exercise of democratic rights and civic responsibilities; encourage informed choice-making online)	Appendix, I – Human Rights and Democracy; II – Access
2008	Recommendation CM/Rec(2008)6 on measures to promote the respect for freedom of expression and information with regard to Internet filters	Inform children and young people about the benefits and dangers of Internet content and its filtering as part of media education strategies in formal and non-formal education	Preamble, Guideline II (iv)
2009	Declaration on the role of community media in promoting social cohesion and intercultural	Multi-stakeholder approach, direct involvement of citizens	Preamble &

	dialogue	and as part of lifelong learning	para. (iv)(c)
2009	Recommendation CM/Rec(2009)5 on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communications environment	<i>Inter alia</i> , multi-stakeholder approach; development of Internet skills and literacy in tandem with promotion of safe and secure spaces on Internet and labelling of online content; awareness-raising; school curricula; countering sexism in online content, etc.	1, 6, 8, 9, 14, 15, 16
2012	Recommendation CM/Rec(2012)1 on public service media governance	Internal management and resource allocation	33
2012	Recommendation CM/Rec(2012)3 on the protection of human rights with regard to search engines	Variety of information, content and services; functioning of search engines (selecting, ranking and prioritising search results; implications for private life, personal data); search-engine literacy and its incorporation into national media literacy strategies	6, 8; Appendix (19, 20)
2012	Recommendation CM/Rec(2012)4 on the protection of human rights with regard to social networking services	Rights of users of social networking sites and rights of others	4

The rationales advanced for the promotion of media literacy in the above texts (sometimes separately and sometimes in parallel) can be grouped as follows:

- the civic empowerment of individuals;
- the reduction/elimination of the digital divide;
- the facilitation of informed decision-making, especially in respect of harmful and illegal online content.

On occasion, texts prise open the nature and objectives of media literacy, e.g. by deepening levels of understanding of how the media work and by sharpening critical attitudes towards the media. A sense of shared responsibility for media education⁹¹ has steadily grown into an explicit insistence on the importance of a multi-stakeholder approach to the promotion of media literacy. This is clearly a reflection of the increasingly complex constellation of involved parties. The enumeration of relevant stakeholders facilitates the identification of specific roles for each, e.g. public service media's educational role⁹² and the roles expected of private-sector and civil-society actors.⁹³

⁹¹ See generally COUNCIL OF EUROPE, RECOMMENDATION OF THE COMM. OF MINISTERS TO MEMBER STATES ON THE PORTRAYAL OF VIOLENCE IN ELECTRONIC MEDIA, 607TH SESS., REC. NO. R(97)19 (1997), available at [http://www.coe.int/t/dghl/standardsetting/media/doc/CM/Rec\(1997\)019&ExpMem_en.asp](http://www.coe.int/t/dghl/standardsetting/media/doc/CM/Rec(1997)019&ExpMem_en.asp).

⁹² See generally COUNCIL OF EUROPE, *Recommendation of the Comm. of Ministers to Member States on the Remit of Public Service Media in the Information Society*, 985TH SESS., REC. NO. R (2007) 3 (2007), available at <https://wcd.coe.int/ViewDoc.jsp?id=1089759&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>.

⁹³ See generally COUNCIL OF EUROPE, *Recommendation on Empowering Children in the New Information and Communications Environment*, 974TH SESS., REC. NO. R(2006)12 (2006), available at [https://wcd.coe.int/ViewDoc.jsp?Ref=Rec\(2006\)12&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](https://wcd.coe.int/ViewDoc.jsp?Ref=Rec(2006)12&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75).

Finally, it is useful to draw attention to an attempt by the Committee of Ministers to identify the different types of content that can prove harmful for children. Very often, reference is made in policy documents to harmful content as an expansive and undifferentiated term. In its Recommendation Rec (2006)12 on empowering children in the new information and communications environment, the Committee of Ministers identifies selected types of harm, which facilitates the follow-on task of devising appropriate, tailored strategies for countering them. It recommends that Council of Europe member states should:

ensure that such skills enable children to better understand and deal with content (for example violence and self-harm, pornography, discrimination and racism) and behaviours (such as grooming, bullying, harassment or stalking) carrying a risk of harm, thereby promoting a greater sense of confidence, well-being and respect for others in the new information and communications environment.⁹⁴

3. Parliamentary Assembly

The following table provides an overview of selected Parliamentary Assembly of the Council of Europe (PACE) texts containing focuses on media education or literacy:

Year	Title	Focus	Para.
1987	Recommendation 1067 (1987) on the cultural dimension of broadcasting in Europe	(i) school courses; (ii) adults and not only parents	20(h)
1989	Recommendation 1098 (1989) on East-West audiovisual co-operation	Audiovisual literacy, research, teacher training and exchanges	15
1993	Recommendation 1215 (1993) on the ethics of journalism	Foster the setting up of citizens' media associations; encourage schools to provide media education	5(iii)
1995	Recommendation 1276 (1995) on the power of the visual image	Visual images – part of literacy, promotion	7, 11(ii)
1998	Resolution 1165 (1998), Right to privacy	Governments – media education wider scale – education on human rights and responsibilities, privacy	16(iii)
1999	Recommendation 1407 (1999), Media and democratic culture	Curricula	9(viii)
2000	Recommendation 1466 (2000), Media education	See below, for detailed analysis	Numerous provisions
2002	Recommendation 1586 (2002), The digital divide and education	Quality appreciation of digital information	G
2005	Recommendation 1706 (2005), Media and terrorism	Curricula - terrorism	10(iv)
2007	Recommendation 1789 (2007), Professional education and training of journalists	Globalisation of media, differences in cultural and media practices	7
2008	Recommendation 1836 (2008), Realising the full potential of e-learning for education and training	Digital literacy for all as strategy against digital divide	10
2009	Recommendation 1855 (2009), The regulation of audio-visual media services	Develop policy guidelines for new means of content control, incl.	12.4

⁹⁴ *Id.*

		media literacy of users	
2009	Recommendation 1882 (2009), The promotion of Internet and online media services appropriate for minors	Media literacy & harmful content, children, adolescents, parents, teachers, Internet and online media services, opportunities and risks	1, 18

A tentative pattern emerges from the above overview: the PACE tends to focus more on the need to embed media education in formal and non-formal educational structures than on theoretical justifications for the promotion of media education or literacy. It is only in its most recent relevant texts that the PACE has begun to meaningfully engage with the specificities of media literacy's relevance in an online environment. Different target groups and stakeholders are identified, but in a more limited fashion than in comparable texts adopted by the Committee of Ministers. Recommendation 1882 (2009) is the text which sets out the potential roles for a diversity of stakeholders in the most detailed way.

The PACE's most sustained engagement with media education/literacy in a single text can be found in its Recommendation 1466 (2000), entitled "Media education."⁹⁵ It sets out the essence of its vision and ambitions in respect of media education/literacy.

The Recommendation defines media education of citizens as "teaching practices which aim to develop media competence, understood as a critical and discerning attitude towards the media in order to form well-balanced citizens, capable of making their own judgments on the basis of the available information."⁹⁶

The PACE documents some examples of media effects, on the basis of which it identifies an urgent need to develop media education in order to promote "active, critical and discerning use of the media."⁹⁷ Media education teaches individuals to interpret and produce messages, select the most appropriate media for communicating and, eventually, and have a greater say in the media offer and output. It enables them to exercise their right to freedom of expression and right to information and is beneficial for their personal development. Furthermore, it stimulates active democratic citizenship and political awareness.

The PACE recommends that the Committee of Ministers: (i) call on Council of Europe member states to encourage the elaboration and the development of media literacy programmes for children, adolescents and adults, and (ii) teacher-training programmes in the field of media education. It also calls for a (quantitatively and qualitatively) satisfactory offering of educational programmes (including media education) to be provided by the different media.

C. Comparison of EU and Council of Europe Approaches

There is much commonality between the approaches to the promotion of media literacy adopted by the EU and the Council of Europe, in terms of their objectives, thematic and programmatic emphases and key target groups and stakeholders. The EU's approach has more formal circularity than that of the Council of Europe. This can be explained partly by shared textual reference points and the formal exchanges that they engender between relevant actors within the EU

⁹⁵Parliamentary Assembly of the Council of Europe, 19th Sess. Rec No.1466 (June 17, 2000), available at <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta00/erec1466.htm>.

⁹⁶ *Id.* at para. 8.

⁹⁷ *Id.*

institutions. The existence of focal texts facilitates the incorporation of different intra-institutional perspectives in policy-making. It also makes for coordinated action across different platforms at the EU-level. The ability to embed media literacy simultaneously in different programmes facilitates a diversified approach, financial underwriting and multi-annual planning - three essential requirements for the progressive development of media literacy.

On the other hand, the less systematic and less formalised cross-referencing that is evident in Council of Europe texts also has advantages, e.g. the ability to explore specific emergent themes in a very detailed and contextualised way. Such an approach could usefully lend itself to, for example, developing a multi-dimensional approach to media literacy for the elderly or the disabled (see further, below). It is also important to note that the Council of Europe has steadily developed a very practical approach to the promotion of media literacy through its Internet Literacy Handbook.⁹⁸

IV. OUTLOOK AND CHALLENGES OF CONSOLIDATION AND FURTHER DEVELOPMENT

The previous section reveals that the main European-level regulatory focuses on media literacy are based on the rationales of participation, protection and social inclusion and that they primarily target children/minors and the public at large. It is useful at this juncture to attempt to explain why other key target groups identified above are not more centrally positioned in regulatory provisions (and their implementation). The elderly and persons with disabilities will be taken as sample key target groups for present purposes, which will again implicate the rationales of participation, protection and social inclusion.

A. *The Elderly*

The participatory capacities of the elderly are often largely shaped by the nature and level of assistance and stimulation they receive to engage with new predominantly digital media or e-democracy. The relevance of participation of the elderly members of society has been underscored at the EU level.⁹⁹

There are good examples of structural and programmatic initiatives promoting media literacy for the elderly at the national level. For instance, Ofcom UK has had a special Advisory Committee on Older and Disabled People (ACOD) since 2004 that advises Ofcom about the interests and opinions of older and disabled persons living in the UK.¹⁰⁰ In its Annual Report for 2009/10, ACOD called on Ofcom to “ensure that older and disabled people are equal players and full participants across current and emerging convergent telecommunications and broadcasting technologies, new media platforms and digital and traditional broadcast media.”¹⁰¹ Ofcom’s audit of media literacy

⁹⁸ COUNCIL OF EUROPE, INTERNET LITERACY HANDBOOK, http://www.coe.int/t/dghl/standardsetting/internetliteracy/hbk_EN.asp.

⁹⁹ *European Parliament Resolution on Media Literacy in a Digital World*, *supra* note 58, at 14; See also European Commission Study on Assessment Criteria for Media Literacy Levels Final Report, at 14, 87 (Oct. 2009), available at http://ec.europa.eu/culture/media/literacy/docs/studies/eavi_study_assess_crit_media_lit_levels_europe_finrep.pdf.

¹⁰⁰ See generally *Functions and Role of OFCOM*, OFCOM, <http://www.ofcom.org.uk/about/how-ofcom-is-run/committees/older-and-disabled-people/functions-and-role>.

¹⁰¹ Advice to Ofcom, *ACOD Annual Report 2009/10*, OFCOM, <http://www.ofcom.org.uk/about/how-ofcom-is-run/committees/older-and-disabled-people/annual-reports/2009-10/>.

across the UK contained a special focus on older people¹⁰² and over the past few years ACOD has published numerous research reports on different aspects of media literacy for older people, e.g. digital switchover issues and how manufacturers, suppliers and retailers can address the needs of the elderly and disabled.¹⁰³ The most recent research study, Next Generation Services for Older and Disabled People,¹⁰⁴ set out to identify and report:

- (i) details of new and near-future Next Generation Services (NGS)¹⁰⁵ that have the potential to benefit older and disabled people's lives;
- (ii) the potential benefits from such services; and
- (iii) the risks and challenges to the realisation of the potential benefits to older and disabled people.¹⁰⁶

In the Netherlands, the aforementioned Mediawijzer.net dedicates a dossier to assisting the elderly in the digital environment.¹⁰⁷ The goal of the dossier is to assist the elderly to find their way along the digital freeway. One of the partners of Mediawijzer.net is SeniorWeb. In a joint collaborative initiative with public libraries, SeniorWeb has created 370 education centres in which it offers courses on media literacy for elderly members of society.¹⁰⁸

Other initiatives at member-state level come from the BBC. Its 'First Click' campaign was designed to help people who would not ordinarily use a computer to access a step-by-step beginner's guide to computers and the internet.¹⁰⁹ Its 'Give an Hour' campaign "encourages digital-savvy citizens to give an hour of their time to help someone else become media literate."¹¹⁰ Both campaigns include the elderly among their target groups.

2. Persons with Disabilities

The importance of persons with disabilities as a specific target group for media literacy goals has been recognised explicitly *inter alia* by various EU bodies.¹¹¹ Nevertheless, the recent studies

¹⁰² *Ofcom Media Literacy Audit: Report on Media Literacy Among Older People*, OFCOM (April 3, 2006), http://www.ofcom.org.uk/advice/media_literacy/medlitpub/medlitpubrss/older/.

¹⁰³ For details see *Next Generation Services for Older and Disabled People*, ADVISORY COMMITTEE ON OLDER AND DISABLED PEOPLE (Sep. 13, 2010), <http://www.ofcom.org.uk/files/2010/09/ACOD-NGS.pdf>.

¹⁰⁴ *See Id.*

¹⁰⁵ Next generation services (NGS) are new and improved telecommunications services that make use of the speed and capacity of next generation networks and are delivered to end users via next generation access.

¹⁰⁶ *Supra* note 104, at iii.

¹⁰⁷ *Senioren op het web* (Seniors on the Web), MEDIAWIJZER.NET, <http://www.mediawijzer.net/dossiers/publiek/senioren-op-het-web>.

¹⁰⁸ *Handig zoeken met internet*, SENIORWEB, <http://www.seniorweb.nl/handigmetinternet>.

¹⁰⁹ *First Click campaign homepage*, BRITISH BROADCASTING CORPORATION, www.bbc.co.uk/connect/campaigns/first_click.shtml.

¹¹⁰ Give an Hour campaign homepage, BRITISH BROADCASTING CORPORATION, www.bbc.co.uk/connect/campaigns/give_an_hour.shtml.

¹¹¹ *See* A European Approach To Media Literacy in the Digital Environment, *supra* note 41, at 5; *See also* European Parliament Resolution on Media Literacy in a Digital World, *supra* note 57, at paras. 11; *A Digital Agenda For Europe*, at 24-27 COM (2010); *Opinion of the Committee of the Regions on Media Literacy and Creative Content Online 2008 O.J. (C 325) 70* (EU).

commissioned by the European Commission pay little or no attention to the group or its specific needs and interests. In the 2009 Study on Assessment Criteria for Media Literacy Levels, persons with disabilities are not even mentioned in its recommendations.

However, this does not mean that European states do not pay attention to this group. For instance, as already mentioned, the ACOD is a special Advisory Committee to Ofcom that addresses the importance of older and persons with disabilities in society.

In the Netherlands, *Mediawijzer.net* also has a separate dossier devoted to media literacy for persons with disabilities.¹¹² The dossier contains background information, tips and a list of partner websites for persons with disabilities. One of the partners is EDDY: Electronic Distance-learning for Disabled Youngsters.¹¹³ This is a digital educational platform that assists high school students with disabilities who are not able to attend classes due to their disabilities.

Aside from the obvious arguments of principle for directing media literacy at persons with disabilities, there are also clear legal arguments to do so. The EU's recent ratification¹¹⁴ of the United Nations Convention on the Rights of Persons with Disabilities¹¹⁵ means that the Convention's very detailed, technology-attuned and forward-looking provisions on access to information and content will have to be implemented at a national level. For instance, Article 9 ("Accessibility") of the Convention includes the obligations for States Parties to:

- (f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- (g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
- (h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

These obligations are supplemented by those set out in Article 21 ("Freedom of expression and opinion, and access to information"), including:

- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities

Here, the "access" component to the definition of media literacy is of paramount importance.

¹¹² *Mediawijs met een beperking (Media Wise With Disabilities)*, MEDIAWIJZER.NET, <http://www.mediawijzer.net/?q=dossiers/professionals/mediawijs-met-een-beperking>.

¹¹³ *Project EDDY: Electronic Distance-Learning for Disabled Youngsters*, LIESA (June 25, 2009), http://www.liesa.nl/index.php?mod=front_page&pageid=545.

¹¹⁴ The treaty was ratified on Dec. 23, 2010. See *A landmark victory as the European Union ratifies the United Nations Convention on the Rights of Persons with Disabilities*, CENTRE ON HUMAN RIGHTS FOR PEOPLE WITH DISABILITIES (Jan. 6, 2011), <http://www.disabilityaction.org/centre-on-human-rights/news/item/257/a-landmark-victory-as-the-european-union-ratifies-the-united-nations-convention-on-the-rights-of-persons-with-disabilities/>.

¹¹⁵ *Convention on the Rights of Persons with Disabilities*, U.N. Doc. G.A. Res. 61/100 (Dec. 13, 2006).

V. MEDIA LITERACY IN THE UNITED STATES **

Media literacy is a growing integral part of American culture, however it does not seem to be getting the same attention as once did telephone, radio, and television.¹¹⁶ In the 1990s, the federal Office of National Drug Control Policy incorporated media literacy education into student substance-abuse programs. States then started including media literacy education in their health education instruction segments in order to help students to understand the different influences that may affect their health decisions.¹¹⁷

In 2007, the Federal Trade Commission (FTC) announced in a statement to the United States Senate that it planned to create a media literacy initiative.¹¹⁸ Following a series of data privacy and security issues, the FTC decided that it would attack the issue not only from the business side, but the consumer side as well. They have since created ftc.gov/YouAreHere, a website for children to play games while learning media literacy skills. In 2010, the FTC introduced Admongo.gov. The purpose of the campaign was to raise awareness of advertising and marketing messages, teach critical thinking skills in order for tweens to better analyze and interpret advertisements, and demonstrate the benefits of being an informed consumer. It is a single player game in an everyday setting where part of the goal is to search for hidden advertisements. Both YouAreHere and Admongo have sections dedicated to parents and teaches them ways to help supplement children's media literacy education.

Unlike Canada and Europe, the United States does not have any centralized or national media literacy education program,¹¹⁹ which is why YouAreHere and Admongo strongly encourage parent and teacher participation. There are many privately funded and non-profit organizations dedicated to promoting a more cohesive media literacy education, such as the National Association of Media Literacy Education in particular. This organization is often cited in media literacy reports, but no national policy for a media literacy education standard has been discussed.

The FTC recently published a report, "Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers."¹²⁰ The report puts forth best practices for business to protect the privacy of American consumers and give them greater control over the

** Jacqueline Merkher, B.F.A., Pratt Institute (2010); J.D., New York Law School (2013).

¹¹⁶ Media literacy is a term which has been used since the 1990s in the U.S. It refers to the ability to understand and process online information. With the growing use of online media – from social websites to filing government forms – it is important that users are well-versed enough in the online language to make educated decisions. The Federal Communications Committee refers to media literacy as how to assess online media in general (see the FCC's The Information Needs of Communities report from 2011, which can be found here: <http://www.fcc.gov/info-needs-communities#read>). The National Association for Media Literacy Education (NAMLE) describes media as a system of "active inquiry and critical thinking about the messages we receive and create." Overall, media literacy involves, "adapting critical thinking skills to a multimedia age." Being literate is no longer a singular term. It refers to a much more abstract and multi-tiered way of understanding language and symbols, particularly on an online platform.

¹¹⁷ See generally: FCC, THE INFORMATION NEEDS OF COMMUNITIES (2011) [herein after THE FCC MEDIA INFORMATION REPORT], available at <http://www.fcc.gov/info-needs-communities#read>.

¹¹⁸ See generally: FTC, PREPARED STATEMENT OF THE FTC (Apr. 10, 2007), available at <http://www.fcc.gov/info-needs-communities#read>.

¹¹⁹ FCC MEDIA REPORT, *supra* note 2, at 221.

¹²⁰ See generally: FTC REPORT, PROTECTING CONSUMER PRIVACY IN AN ERA OF RAPID CHANGE (2012) [hereinafter FTC REPORT], available at <http://www.ftc.gov/os/2012/03/120326privacyreport.pdf>.

collection and use of their personal data.¹²¹ While many media literacy initiatives by the FTC target children and young consumers, this report focuses on the producer rather than the end user, and criticizes the techniques used to create online programs and devices. The FTC also recommends that Congress consider enacting general privacy legislation, data security and breach notification legislation, and data broker legislation.¹²² The FTC brings up several points, including privacy by design, simplified choice for businesses and consumers, and greater transparency.¹²³ Interestingly, the FTC has not tried to pass any sort of regulation, but only makes recommendations to online companies.

The United States has not yet tried to regulate media literacy, but rather attempts to raise awareness for both the producer and end user. Media literacy is on the rise, and being encouraged in classrooms. Meanwhile, media literacy is also being addressed from the production point of view, in order to make privacy a priority. Instead of trying to regulate media literacy, the government has put the onus on producers and consumers to strike a balance of shrewd, discerning consumers and privacy-driven producers. On the other hand, the European Union has a much more developed program for media literacy. The EU has taken the stance that media literacy should be comprehensive and part of a national program. In stark contrast, the EU has gone as far as trying to craft policies for media literacy education.

VI. CONCLUSION

The best answer to the question posed in the title of this article is probably a qualified “yes,” but challenges remain for the consolidation of media literacy’s new-found status within the European audiovisual regulatory framework. Challenges also exist at the national level.¹²⁴

The refinement that is likely to result from new reporting obligations and processes under the AVMSD should facilitate the distillation of best practices and the development of bench-marking activities. However, it has been noted that media literacy education in Europe is a “highly contextualized activity that takes many forms in many different cultural and learning environments.”¹²⁵ The search for increased consistency across national and cultural situations for reporting and evaluation purposes must leave sufficient space for the recognition and appreciation of variation in strategies and progress at the national and sub-national levels.

In light of these challenges, there remains a need to continue to reflect on the position and role of media literacy in European (and national) regulatory frameworks. It must not be (perceived as) merely a sweetener for deregulation. A firm obligation on States to promote media literacy needs to

¹²¹ FTC REPORT, *supra* note 16, at 1.

¹²² FCC MEDIA REPORT, *supra* note 1, at 379.

¹²³ At this stage of online development, the FTC chose to target regulation of producers (such as online companies and technology companies) rather than consumers. As a precautionary measure, the FTC advises companies to make products and services with the initial idea that they should always provide reasonable security for consumer data. This has a foreseeable end goal: a standardized level of reasonable care in product and service design. The FTC also recommends that companies make it easier for consumers to control the tracking of their online activities, a feature which has yet to be standardized for all online services. Finally, the FTC recommends that online companies be much more visible with what information they collect on users.

¹²⁴ See Emmanuelle Machet, *Media Literacy – What Role for the Regulators?*, BACKGROUND PAPER EPRA 2008/02 (2008) (A comprehensive overview of regulatory issues at the national level), available at http://epra3-production.s3.amazonaws.com/attachments/files/272/original/literacy_final.pdf.

¹²⁵ Hobbs & Jensen, *supra* note 5, at 2.

be introduced into the AVMSD, otherwise the reporting on levels of media literacy in EU Member States envisaged by the Directive, will prove to be tokenistic. Genuine commitment to the development of a multi-stakeholder approach to media literacy is essential in this respect.¹²⁶

So far, the promotion of media literacy by the EU and the Council of Europe has resulted in detailed engagement with the specificities of children as a target group and also, to a lesser extent, adults and the public at large. Such detailed engagement could usefully be replicated in respect of other target groups, e.g. the elderly, persons with disabilities, linguistic minorities, the socially/economically disadvantaged. The same rationales for the promotion of media literacy for children apply *mutatis mutandis* to these groups. Detailed engagement with the specificities of these target groups must begin with an understanding of their particular needs and requirements – an ongoing process facilitated by relevant multi-stakeholder involvement.

It has been claimed that “[t]he promise of media literacy, surely, is that it can form part of a strategy to reposition the media user – from passive to active, from recipient to participant, from consumer to citizen.”¹²⁷ How long it will take to deliver fully on that promise remains to be seen.

¹²⁶ See Brian O'Neill, *Current Policy Developments in European Media Literacy*, 6 INT'L J. of MEDIA AND CULTURAL POL., 240 (2010).

¹²⁷ Sonia Livingstone, *What Is Media Literacy?*, 32 INTERMEDIA, 20 (2004).