

Damian Tambini, **Media Freedom**, Medford, MA: Polity, 2021, 224 pp., \$69.95 (hardcover), \$24.95 (paperback), \$20.00 (e-book).

Reviewed by
Andrei G. Richter
Comenius University

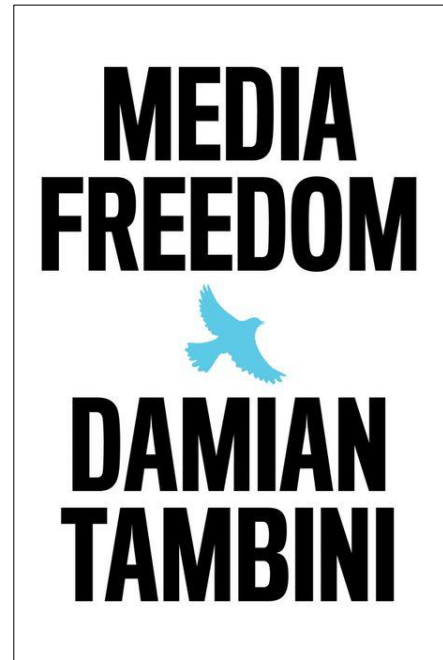
At least statistically, **Media Freedom**, by Damian Tambini, raises a lot of questions, though provides only a few answers. Question marks appear in the book 146 times, the author uses the word “question” 102 times, and he only writes the word “answer” eight times.

Tambini is an expert analyst and a scholar of media freedom, serving as an associate professor at the prestigious London School of Economics (LSE), occasionally advising ad hoc committees of the European Commission and the Council of Europe on media freedom related issues. Before the LSE, he headed the Programme in Comparative Media Law and Policy at the Centre for Socio-Legal Studies, a constituent part of the Law Faculty of the University of Oxford.

In the book’s introductory chapter, the author raises the pertinent issues on media freedom in today’s world and sets the intrigue by promising to deal with them with “a new approach to democratic communication that runs with the grain of the history of press and speech freedom” (p. 2). Such an approach apparently leads the author to design a theory that will guide the reform of media governance and legal judgments on freedom of expression. Chapters 2 and 3 of the book are on the history of media freedom law and policy intertwined with the history of the media themselves. The last three chapters provide and explain the author’s vision for contemporary and future media governance. In particular, chapter 5 presents the essence of the new media theory, while chapter 6 covers an application of this theory to Internet and social networks.

In the author’s analysis, I find his presentation of the theory paramount. The author rightfully suggests merging the positive and negative approaches to media freedom. He considers media freedom granted, as an institutional right (p. 133), to Internet-based media and some intermediaries, which have replaced press and broadcasting in the “information ecology” (p. 126). He suggests and briefly describes 10 key principles of media freedom (pp. 136–138), though, at least to me, they look more like 10 considerations. Then he explains the key challenges to the current “impasse” with the understanding of media freedom: the dubious role played by the AI, jurisdiction issues in the transfrontier communication, content liability for the media entities, and lack of news funding.

The author suggests that the stakeholders compile a new “social contract” between “citizens, state and media” (p. 164) as the basis for media regulation in the future. The contract shall provide those



recognized as the media (in fact, big social media companies) certain privileges through an exchange of their monopoly for responsibility, duty of care, and self-regulation (p. 158). A violation of the social contract shall lead to a loss of the media status, as decided by "an independent commission," separate from the state (pp. 140, 163–164). Tambini ambitiously calls this social contract "The First Settlement" (p. 150) in an apparent parallel with the First Amendment:

The US Supreme Court's reinterpretation of the First Amendment in the early twentieth century shaped liberal politics for a century. It is time for a reinterpretation that permits a new age of institution building and a new settlement for our new media. (p. 177)

In the course of learning the history of media freedom, the author persistently compares and separates the approaches that have emerged in the United States and elsewhere in the world. He insists, repeatedly, on the United States being an "outlier" (pp. 9, 27, 67), on its "exceptionalism" (through "claiming"—*sic!*—that their standards are higher than elsewhere; p. 50), and on the U.S. "divergence" and "deep divisions" (pp. 8, 49, 69) with the rest of the world and "global standards" of the UN. This "uncoupling" is proven by, for example, pointing to the public service broadcasting model in the United States, which apparently, unlike elsewhere, is "perpetually underfunded, fragmented and restricted from competing effectively" with the private media (p. 92). Often, the rest of the world comes to "Europe," or the European Union, or the Council of Europe, or just the UK. At one point, the author rightly acknowledges that the book focuses on the examples of the United States and the UK, as those being most familiar to him (p. 32). Therefore, a curious reader will not see mentions of media freedom concepts or policies in the "other" Europe of the former Soviet countries, such as Russia or Ukraine, in the book.

I find the main weakness of the book in the author's trying to set aside and isolate U.S. concepts on media freedom from the rest of the world. With all available criticism of the state of media freedom in America, especially in recent years, its alienation with other democracies looks artificial. Moreover, the author himself points to the similarities between the First Amendment and the European Convention on Human Rights (p. 134), while, of course, the role of the Americans in drafting UN principles on human rights cannot be overestimated. Perhaps, the real "divergence" is to be found between the liberal media standards shared by both United States and other democracies, and the attacks on media freedom foundations, including theoretical ones, coming from the populist "illiberal states" of Central Europe, or autocracies in Russia and Belarus, or from many other governments worldwide, that are alien to both traditional and modern human rights concepts. None of these "divergent" attacks, alas, are considered in the book.

Tambini's interpretation of the history of media regulation in the United States and the UK also seems to be patchy. Speaking of the UK, Tambini fails to even mention the Bill of Rights (1688), though he describes its French and U.S. equivalents. He would render the ideas of the first Royal Commission on the Press but forgets the subsequent two Royal Commissions.

Speaking of the United States, Tambini debates a lot about the "public interest" standard in licensing, but only in the past tense (pp. 85, 88, 94), while it is—though lacking "teeth" after the fall of the Fairness Doctrine (the latter's substance was, unfortunately, left unexplained by the author)—still in place (Federal Communications Commission, 2021, introduction), and, moreover, "persists" (Trager, Ross, &

Reynolds, 2018, p. 407). Tambini points, in contrast to Europe, to the lack of a “strong doctrine” on the “watchdog” function of the press in the United States (pp. 54, 63), while other scholars believe it is well-developed in the case law of the Supreme Court, including in its arguments in the Pentagon Papers judgment (Carroll, 2020, p. 543). Facts also do not prove the “marginal” (p. 92) position of noncommercial broadcasting, such as NPR, with its millions of consumers (Folkenflik, 2020).

The book abounds in contextual information on its subject matter, with plenty of references to sources and facts. Still, its style is purely academic, so its target audience is most likely researchers of media law and policy, and, hopefully, it will be found useful by policy makers internationally.

The next edition of the publication would gain from better editing, as the author incidentally mixes Freedom House with Freedom Forum (p. 111), ICCPR with UDHR (p. 51), taxation with the household fee for PSB in Germany (pp. 95–96), the *Groppera* case with *Centro Europa* (p. 87, fn 90), and the exact number of criteria for the new notion of the media, developed by the Council of Europe (six, not five; p. 167).

Alan Rusbridger, the former editor of *the Guardian*, who currently leads *Prospect* magazine in the UK, endorsed the book by Tambini as “a comprehensive and compelling guide to the arguments we need to have” in the battles over media freedom. The arguments in question might provoke counterarguments, but raising the issues of media freedom is exceptionally important at this stage, when the world contemplates with awe the related technological transformations and disinformation attacks that are happening in the media field in so many ways. The text adds to the breadth and depth of the discussion on both what “the media” are today, and what the grain in “media freedom” is, the battles over which will continue.

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