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論文題目 Law and Economics of Media Policy: Europe and Japan Compared

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学位論文の要旨

Media Policy necessarily contains various contradictory factors and, for scholars, it is often referred to as “acrobatics” in academics. However, at the advent of the information society, it is important to grasp the whole framework of media policy for a healthy democracy amid the rapid changing technological environment. Firstly, pluralism, which is one of the most important components of media policy in Europe and Japan, will be reviewed from normative and legal perspectives. Maintaining pluralism itself has diversified meanings and this dissertation will observe the various origins. Secondly, empirical analysis on media policy in Europe including the evaluation of the public service broadcasting will be focused. Thirdly, implication for Japan will be induced from the above discussion and the conclusion will show the potentials and limits of this dissertation.

As to media pluralism, focus on competition law has been developed recently. In general, competition law is applied to the media industry in the same way as any other industry, though its application is challenged to some extent from a constitutional viewpoint. The key constitutional issues include the protection of freedom of press/media or media pluralism in many countries. Application of competition law to the media industry is considered to be a fine balance between two societal expectations. One is to impose public restraints on the undertaking which enjoys freedom of press/media, while the other is to discard private restraints to guarantee media pluralism. This complex relationship causes various legal issues.

Economic empirical analysis section attempts to verify the functions of the main part of the media policy in European society, especially through the establishment of a public service broadcaster (PSB) and the creating of entry barriers by a licensing system in the terrestrial broadcasting market through developments in social psychology and

communication theory. Thus far, media policy has been examined normatively and theoretically, but less rigorous proofs were provided. Our analysis integrates patch-worked and multi-dimensional past researches and clarifies the causal relationships in the overall picture through a structural equation model (SEM) using data from various social surveys. This reveals that these policies have a positive effect on people's acquisition of the basic requirements for democracy, the development of social capital and people's quality of life, happiness.

Another empirical analysis will be conducted on the public service broadcasting. The existence of public service broadcasting is often inferred from the existence of 'market failure'. However, 'market failure' is not a coherent concept and has various meanings. First, broadcasting is public goods and it causes traditional 'free rider' problem. Second, even now, we can acknowledge the Hotelling effect, which will lead to the provision of the similar contents and that will confirm the market provision does not guarantee optimal supply. Third, television programming has both natures of experience and merit goods. Experience goods mean that the features of goods will be revealed just after its consumption. Merit goods mean it has positive externalities and that individual consumption will lead to social benefit. Finally, contribution to quality, diversity and fostering innovation is also indicated as a part of 'market failure'. Recent economic studies have concentrated on measuring the value of the goods which have these features and are exchanged on a non-market basis. One of the ways to measure is contingency valuation methods (CVM) and it is paid attention to as a means for measuring the values of goods and services which are not exchanged in the market. CVM is developed by applying for environmental and medical policy, and recently adopted for measuring the value of public service broadcasting. This methods is effective not only to calculate willingness to pay (WTP) for the Cost/Benefit Analysis but also to monitor the relationship between the contents and ingredients of values and WTP by making use of suitable estimation methods. Therefore, while a public service broadcaster is required to show value for money, CVM can also be applied for improving accountability of management and decision-making processes. Chapter 4 intends to assess values of NHK (*Nippon Houso Kyokai*: Japanese Broadcasting Corporation) by applying CVM. Our work is not the first one in this field in Japan. From 1975 to 76, Onoe and Sakamoto initiated earlier attempt to assess NHK by CVM even in a primitive way. It should be noted that it was one of the earliest studies in the world. This chapter follows the recent experiences of CVM on various public service broadcasters such as BBC (British Broadcasting Corporation), CBC (Canadian Broadcasting Corporation) and so forth, and the components and contents of the value of the Japanese public service broadcasting will be analyzed. In the past literature, WTP has been analyzed by programs or genres, that is, horizontally. But recently, by

elaborating questions, the relationship between broad values of public service broadcasting and people's perception on these values has been observed. We assume "Public Service Broadcaster's Values (PSB Values)" for its analysis and multi-dimensional factors affecting WTP will be revealed.

Finally, the observation will proceed with the recent tragic incident. The Great East Japan Earthquake has resulted in various implications for media regulation. The main framework for media regulation in Japan is based on partial regulation and dualism designed for maintaining media pluralism, while relying on market mechanism with mitigating barriers to entry and regulation on the concentration of ownership in accordance with digitization and a decrease in the scarcity of the radio spectrum. In an extreme and confused situation such as an earthquake, reliance on 'one, absolute voice' is sought, but this necessarily leads to restrictions on freedom of speech by the authorities. The earthquake challenged the resilience of media policy, which is inclined to pave the way for the normative concept of the marketplace of ideas, and requires a reassessment of its orientation. The situation of both supply side and citizen/user side will be examined with surveys observed just after the earthquake. How its intended aims and philosophy have functioned through the disaster will be clarified and the new direction of media policy in a convergent era will be induced.

This dissertation challenges the media policy in comparative perspectives from the viewpoint of law and economics. There are little precedents for this kind of converged approach and this paper will make some contribution to the future design of media policy.

論文審査の結果の要旨

本博士論文は、メディアポリシー (media policy) を、メディアの多様性、多元性、地域性、これらを確保するための公共政策と位置づけ、この政策のあり方や評価を経済学と法学のアプローチを統合する「法と経済学」の立場から分析している。メディアポリシーは各国により異なるが、本研究は日本、EU、さらには米国でのメディアの特性とそれに起因する政策を比較するために、それぞれの法律や経済、さらには憲法の理念といった観点から総合的に俯瞰している。今後メディアポリシーは、憲法や基本的人権といった理念よりも、競争法に軸をおくべきであるというのが基本的な立場である。また近年はインターネット等の情報化の進展が著しく、メディアのコンバージェンスが生じ、従来のメディアポリシーは大きな転換を求められているが、本研究はこれにも解答を与えようとするものである。

第1章での序論やこの分野でのサーベイに続き、第2章では、EUでの競争法がいかにメディアの3目標、特に多様性を確保するため構築されているか分析を行っている。3章では、EUの環境政策と競争法とを論じている。環境でも法的議論の根源は、メディア政策と同じであり、この意味で、本章の応用範囲の広さが示されている。第4章では、日本での多様性を確保するための政策に関して、競争法からアプローチを行い、特にメディアでの生じた実際の事例を中心に分析している。第5章と第6章では、メディア政策を経済学から分析するものであり、前者は公共放送の設置により、国民がそれを見ることにより、民主主義の維持に必要な情報 (Basic requirement) を得て、それが国民の間で共有され (Social capital)、最終的に国民の幸福度 (Happiness) にどう影響しているか、EUの各種の社会調査データを基礎に SEM (Structural Equation Model) を適用して分析している。公共放送の設立は、上記のプロセスを経て国民の幸福度に有意に作用しているとの結論を得ている。後者では、公共放送の価値を視聴者の WTP から計測し、かつその金額が公共放送のどのような目的から出ているか実証的に分析している。本章の分析では、これまでの CVM に加えて、PSM (Propensity score matching) 法の応用により従来の分析を拡張している。この研究では、公共放送の費用便益分析や、番組編成の Portfolio management への拡張が示されている。第7章では、東日本大震災の際にメディアにとって明らかになった問題から、今後の日本での多様性の議論を深める方向性を検討し、本論文の結論は第8章で与えられている。

以上で述べた各章は、すでに査読付きジャーナルに公刊されたか、国際学会で発表されたものである。これが本論文の質的な高さを証明している。また、各章とも法学の伝統にしたがって、多くの参考文献を読破され、それらとの比較検討は注の中で詳細に行われている。本博士論文に充当された時間とエネルギーに敬服するものである。

以上、質と量の二つの側面からみて、本博士論文は博士（応用情報科学）の学位授与に値するものと判定する。