Freedom of expression—particularly freedom of speech\(^1\)—is, in most Western liberal democracies, a well accepted and long established, though contested, constitutional right or principle. Whilst based in ethical, rights-based and political theories such as those of: justice, the good life, personal autonomy, self determination, and welfare, as well as arrangements over legitimate government, pluralism and its limits, democracy and the extent and role of the state, there is always a lack of agreement over what precisely freedom of expression entails and how it should be applied. For the purposes of this book we are concerned with freedom of expression and the media with regard to the current application of legal standards and self regulation to journalistic practice.\(^2\) These applications, it must be said, presume certain views: first and most generally that people should be free to speak their mind; secondly there co-exists within this freedom, a freedom of the press and publication; and thirdly that freedom of expression serves a public good. Each is a contentious matter and subject to revision, constraint and extension as well as much public debate, as—in a slightly different context—the Wikileaks saga has shown. This book is concerned with these issues as they affect the contemporary media, the practice of journalism and why imposed constraints and the extent of the freedoms attached to freedom of expression are managed, and why they may or may not be ultimately regarded as legitimate or not legitimate. It is the practical matter of contemporary journalism and freedom of expression that concerns us. Consequently this is not a philosophical work so much as a work concerned with the way that freedom of expression is evoked and applied and those arguments that support or refute such evocation and application, focusing on areas of tension between freedom of expression and other considerations. In short, this is a book concerned with what the various

\(^1\) This chapter will use the terms 'freedom of expression' and 'free speech' as interchangeable.

\(^2\) As such we exclude the entertainment side of the media business, such as films and dramas, game-shows and reality television, though obviously this boundary is somewhat porous.
authors regard as good practice as well as what they regard as problematic and why.

Some background is in order and what follows immediately is a sketch of some theories of freedom of expression that most impact upon the form of regulation, self regulation and the conduct of the contemporary media. Essentially this sketch is comprised of the following overlapping views that: freedom of expression is essential to the discovery of truth and error; that it secures government by discussion; that it requires a vibrant public sphere; enables autonomy and deliberation and that it is an essential condition of a democratic relationship to Government all of which the media should, in part, serve. Combined they frame a space within which media companies—and particularly news journalists—are required or are obliged to operate. While this space is not quite the mediapolis of the kind Silverstone\(^3\) desires, namely one concerned to grow a global morality, it is, as Silverstone demonstrates, an ethical space nonetheless which houses both the demands for freedom of expression and its limits; and what one has a right to know and under what circumstances that right does not apply. It is a space in which freedom of expression, public will formation and the responsibilities the media have to its audiences are played out.

One of the earliest arguments on behalf of freedom of expression is that freedom of speech is essential to the discovery of truth and error or is necessary to guide and legitimate political decisions. These positive arguments, as Harrison reminds us in her chapter, received one their first expressions in the work of the seventeenth century, republican and poet John Milton (1608–1674). Milton argued against the licensing requirement on books\(^4\) which stated that ‘no book, pamphlet or paper shall be henceforth printed unless the same be first approved and licensed by such, or at least one of such, as shall be thereto appointed,’ by distinguishing public prohibition from private choice. He argued: ‘all opinions, yea errors, known, read, and collated, are of main service and assistance toward the speedy attainment of what is truest’. Milton did, however, accept the need to have some control over what was published: he accepted the needs of a person’s reputation, as well as the validity of copyright and, as Harrison notes, Milton’s sense of tolerance and freedom of expression existed.

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