

# NEWS MEDIA EUROPE

## Amendments to the European Media Freedom Act proposal (March 2023)

### Executive summary:

[News Media Europe](#) is the voice of the progressive news media industry in Europe, representing over 2,700 news brands in print, online, radio and TV, through national associations from sixteen countries. Together, we defend key principles which are vital to us: protecting the freedom of the press, championing the digital future of our industry, and ensuring that the value of content is properly protected.

We acknowledge the intention to protect press freedom, propose amendments in this spirit and look forward to playing a full part in the consultation. Our association has expressed strong reservations about the EMFA proposal in our [position paper](#), which must be read as a basis for our amendments. Media policy is and should remain a national competence. Therefore the EMFA should not interfere with national laws and practices. The EMFA should establish media freedom principles and prevent government interference, rather than regulating media. Also, the EMFA should not undermine trust in media, but rather enhance it.

Our amendments focus on:

1. **Clarifying definitions and editorial independence safeguards**
2. **Enhancing trust in all media service providers, big and small**
3. **Fostering trust in professional journalism in Europe**
4. **Ensuring the independence of the Board**
5. **Limiting the role of the European Board to substantial cross-border concentrations**
6. **Ensuring fair competition with public service media**
7. **Protecting access to editorial content on very large online platforms**
8. **Applying fair audience measurement systems, including for local media**
9. **Enforcing the rights of media service providers before independent complaint bodies**
10. **Taking social networks into account in state advertising rules.**
11. **Transparency of funding from third-country administrations**

We thank you for considering the suggested amendments to the European Commission's proposal and remain at your disposal for any questions or comments you may have.

### Suggested amendments:

#### [Clarifying definitions and editorial independence safeguards](#)

<b>Proposal for a regulation</b> Recital 8	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
In the digitalised media market, providers of video-sharing platforms or <b>very large</b> online platforms may fall under the	In the digitalised media market, providers of video-sharing platforms or online platforms may fall under the definition of

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<p>definition of media service provider. In general, such providers play a key role in the content organisation, including by automated means or algorithms, but do not exercise editorial responsibility over the content to which they provide access. However, in the increasingly convergent media environment, some providers of video-sharing platforms or <b>very large</b> online platforms have started to exercise editorial control over a section or sections of their services. Therefore, such an entity could be qualified both as a video-sharing platform provider or a <b>very large</b> online platform provider and as a media service provider.</p>	<p>media service provider. In general, such providers play a key role in the content organisation, including by automated means or algorithms, but do not exercise editorial responsibility over the content to which they provide access. However, in the increasingly convergent media environment, some providers of video-sharing platforms or online platforms, <b>which produce their own content</b>, have started to exercise editorial control over a section or sections of their services. Therefore, such an entity could be qualified both as a video-sharing platform provider or <b>an</b> online platform provider and as a media service provider.</p>
<p><i>Justification</i></p> <p><i>We would like to clarify that online platforms such as social media can qualify as “media service providers” provided that they produce their own content and exercise editorial control. Having moderators and algorithms in place does not amount to creating content.</i></p>	

<p><b>Proposal for a regulation</b> Recital 20</p>	
<p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</i></p>
<p>Media integrity also requires a proactive approach to promote editorial independence by news media companies, in particular through internal safeguards. Media service providers should adopt proportionate measures to guarantee, <b>once the</b> overall editorial line <b>has been agreed between their owners and editors</b>, the freedom of the editors to take <b>individual</b> decisions in the course of their professional activity. The objective to shield editors from undue interference <b>in their decisions taken on specific pieces of content as part of their everyday work contributes to ensuring a level playing field in the internal market for media services and the quality of such services. That objective</b> is also in conformity with the fundamental right to receive and</p>	<p>Media integrity also requires a proactive approach to promote editorial independence by news media companies, in particular through internal safeguards. Media service providers should adopt proportionate measures to guarantee, <b>in line with the media service providers’ identity and</b> overall editorial line, the freedom of the editors to take <b>independent</b> decisions in the course of their professional activity. The objective to shield editors from undue interference is also in conformity with the fundamental right to receive and impart information under Article 11 of the Charter. In view of these considerations, media service providers should also ensure transparency of actual or potential conflicts of interest to their service recipients.</p>

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<p>impart information under Article 11 of the Charter. In view of these considerations, media service providers should also ensure transparency of actual or potential conflicts of interest to their service recipients.</p>	<p><i><b>This is without prejudice to existing legal and self-regulatory frameworks of Member States that govern liability rules applicable to the editorial content of media services. Therefore, editorial independence safeguards should not prevent or otherwise restrict managerial decisions where the principal purpose of such decisions is to shield the media service provider or the editors from liability risks.</b></i></p>
<p style="text-align: center;"><i>Justification</i></p> <p style="text-align: center;"><i>The amendment:</i></p> <ul style="list-style-type: none"> <li>• <i>Removes the ambiguity that owners, e.g. a commercial company outside the media business, could have an influence on editors' decisions.</i></li> <li>• <i>Underlines that the editor is the one and only person in charge of implementing the editorial line of the media service to the best of his or her ability.</i></li> <li>• <i>Clarifies that editors' independent decisions must be aligned with the media service's' identity and overall editorial line.</i></li> <li>• <i>Removes the generalisation of undue interference in the sector and the assumption of poor quality of media services, to avoid feeding into a narrative of public distrust against professional media.</i></li> <li>• <i>Clarifies that media service providers can still make decisions to protect editors who are sued for liability of the content produced.</i></li> </ul>	

<p><b>Proposal for a regulation</b> Article 2 Definitions</p>	
<p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</i></p>
<p>1. 'media service' means a service as defined by Articles 56 and 57 of the Treaty, where the principal purpose of the service or a dissociable section thereof consists in providing programmes or press publications to the general public, by any means, in</p>	<p>1. 'media service' means a service as defined by Articles 56 and 57 of the Treaty, where the principal purpose of the service or a dissociable section thereof consists in providing programmes or <b>content of</b> press publications to the general public, by any means,</p>

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<p>order to inform, entertain or educate, under the editorial responsibility of <b>a media service provider</b>;</p> <p>2. 'media service provider' means a natural or legal person whose professional activity is to provide a media service and who <b>has editorial responsibility for the choice</b> of the content of the media service and determines the manner in which it is organised;</p> <p>7. 'editor' means a natural person <b>or a number of natural persons possibly grouped in a body, regardless of its legal form, status and composition, that</b> takes or supervises editorial decisions within a media service provider;</p> <p>9. 'editorial responsibility' means the exercise of effective control both over the selection of the programmes or press publications and over their organisation, for the purposes of the provision of a media service, regardless of the existence of liability under national law for the service provided;</p>	<p>in order to inform, entertain or educate, under the editorial responsibility of an <b>editor</b>;</p> <p>2. 'media service provider' means a natural or legal person whose professional activity is to provide a media service <b>involving editorial responsibility for the choice</b> of the content, who <b>decides the overall editorial line</b> of the media service and determines the manner in which it is organised;</p> <p>7. 'editor' means a natural person <b>who exercises and has ultimate editorial responsibility, meaning the person who</b> takes or supervises editorial decisions within a media service;</p> <p>9. 'editorial responsibility' means the exercise of effective control both over the selection of the programmes or <b>the content of</b> press publications and over their organisation, for the purposes of the provision of a media service, regardless of the existence of liability under national law for the service provided. <b>Editorial responsibility conveys standards of professional journalism and guarantees trust in the media and in journalism.</b></p>
<p style="text-align: center;"><i>Justification</i></p> <p>(1) A 'media service' is an editorial title (e.g. <i>elpais.com</i>, a tv channel, Canal Digitaal), published or broadcasted under the editorial responsibility of a responsible editor.</p> <p>(2) A 'media service provider' must be understood as the media company (e.g. tv broadcaster, press publishing house), which decides the general editorial line of the content, without influencing the concrete content of the publication or programme.</p> <p>(7) There can be only one responsible editor at each media service. The editor is the one in charge of a specific publication or programme.</p>	

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(9)“The content of” has been added before press publications; this is due to the fact that programmes are individual parts of e.g. a television channel, whereas press publications are collections of, for instance, news articles and photographs gathered in a publication, cf. the definition in Article 2(5), which refers to Article 2(4) of the Copyright DSM Directive 2019/790/EU.

## Proposal for a regulation

Article 6 (2)

Duties of media service providers providing news and current affairs content

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>2. Without prejudice to national constitutional laws consistent with the Charter, media service providers providing news and current affairs content shall take measures that they deem appropriate with a view to guaranteeing the independence of <b>individual editorial</b> decisions. In particular, such measures shall aim to:</p> <p>(a) guarantee that editors are free to take <b>individual</b> editorial decisions in the exercise of their professional activity; and</p>	<p>2. Without prejudice to national constitutional laws consistent with the Charter, media service providers providing news and current affairs content shall take measures that they deem appropriate with a view to guaranteeing the independence of <b>the editor’s decisions, in line with the media service’s editorial line</b>. In particular, such measures shall aim to:</p> <p>(a) guarantee that editors are free to take <b>independent</b> editorial decisions in the exercise of their professional activity, <b>without prejudice to the editors’ right to delegate their decision-making powers</b>; and</p>

### *Justification*

*We wish to clarify that editorial decisions by the editor must be taken in line with the overall editorial line of the media service and in full respect of the independent decision-making of the editorial side.*

*The editor is the only one ultimately responsible for the drafting and for making final independent content decisions (headline, substance of the article or programme, sources, authorship etc).*

*Yet in any larger media service, there is a huge number of individual editorial decisions made every day, even every hour. The majority is not directly made by the responsible editor. It would likely be an impossible task to one human being. Therefore we should clarify that the editor has a right to delegate his or her decision-making powers as he or she deems appropriate within the editorial team.*

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Enhancing trust in all media service providers, big and small

<b>Proposal for a regulation</b> Recital 21	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p><b><i>To mitigate regulatory burdens, micro enterprises within the meaning of Article 3 of Directive 2013/34/EU of the European Parliament and of the Council should be exempted from the requirements related to information and internal safeguards with a view to guaranteeing the independence of individual editorial decisions. Moreover,</i></b> media service providers should be free to tailor the internal safeguards to their needs, in particular if they are small and medium-sized enterprises within the meaning of that Article. The Recommendation that accompanies this Regulation provides a catalogue of voluntary internal safeguards that can be adopted within media companies in this regard. The present Regulation should not be construed to the effect of depriving the owners of private media service providers of their prerogative to set strategic or general goals and to foster the growth and financial viability of their undertakings. In this respect, this Regulation recognises that the goal of fostering editorial independence needs to be reconciled with the legitimate rights and interests of private media owners.</p>	<p>Media service providers should be free to tailor the internal safeguards to their needs, in particular if they are small and medium-sized enterprises within the meaning of that Article. The Recommendation that accompanies this Regulation provides a catalogue of voluntary internal safeguards that can be adopted within media companies in this regard. The present Regulation should not be construed to the effect of depriving the owners of private media service providers of their prerogative to set strategic or general goals and to foster the growth and financial viability of their undertakings. In this respect, this Regulation recognises that the goal of fostering editorial independence needs to be reconciled with the legitimate rights and interests of private media owners.</p>
<p><i>Justification</i></p> <p><i>For the purpose of enhancing trust in the media, the obligations of Article 6 should also apply to micro-enterprises as we think this information can be easily made accessible on all companies' websites. In some Member States, the media landscape is largely composed of micro enterprises which produce a large part of online news and current affairs. The fact that they qualify as micro enterprises does not mean these media service providers do not have a wide reach.</i></p>	

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<b>Proposal for a regulation</b> Article 6 (3) Duties of media service providers providing news and current affairs content	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
3.The obligations under this Article shall not apply to media service providers that are micro enterprises within the meaning of Article 3 of Directive 2013/34/EU.	<b>Deletion</b>
<i>Justification</i>  <i>Same as above.</i>	

## Fostering trust in professional media and journalism in Europe

<b>Proposal for a regulation</b> Recital 15	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Member States have taken different approaches to the protection of editorial independence, which is increasingly challenged across the Union. <b><i>In particular, there is growing interference with editorial decisions of media service providers in several Member States. Such</i></b> interference can be direct or indirect, from the State or other actors, including public authorities, elected officials, government officials and politicians, for example to obtain a political advantage. Shareholders and other private parties who have a stake in media service providers may act in ways which go beyond the necessary balance between their own business freedom and freedom of expression, on the one hand, and editorial freedom of expression and the information rights of users, on the other hand, in pursuit of economic or other advantage. Moreover, recent trends in media distribution and consumption, including in particular in the online	Member States have taken different approaches to the protection of editorial independence, which is increasingly challenged across the Union. <b><i>Issues of</i></b> interference can be direct or indirect, from the State or other actors, including public authorities, elected officials, government officials and politicians, for example to obtain a political advantage. Shareholders and other private parties who have a stake in media service providers may act in ways which go beyond the necessary balance between their own business freedom and freedom of expression, on the one hand, and editorial freedom of expression and the information rights of users, on the other hand, in pursuit of economic or other advantage. Moreover, recent trends in media distribution and consumption, including in particular in the online environment, have prompted Member States to consider laws aimed at regulating the provision of media content.

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<p>environment, have prompted Member States to consider laws aimed at regulating the provision of media content. Approaches taken by media service providers to guarantee editorial independence also vary. <b><i>As a result of such interference and fragmentation of regulation and approaches, the conditions for the exercise of economic activities by media service providers and, ultimately, the quality of media services received by citizens and businesses are negatively affected in the internal market.</i></b> It is thus necessary to put in place effective safeguards enabling the exercise of editorial freedom across the Union so that media service providers can independently produce and distribute their content across borders and service recipients can receive such content.</p>	<p>Approaches taken by media service providers to guarantee editorial independence also vary. It is thus necessary to put in place effective safeguards enabling the exercise of editorial freedom across the Union so that media service providers can independently produce and distribute their content across borders and service recipients can receive such content.</p>
<p style="text-align: center;"><i>Justification</i></p> <p style="text-align: center;"><i>The EMFA should not undermine trust in the media but rather enhance it. One should be very careful with questioning the quality of media services and establishing a negative view of professional and journalistic services, when the objective of the EMFA is actually the opposite.</i></p>	

## Ensuring the independence of the Board

<p><b>Proposal for a regulation</b> Article 10 Structure of the Board</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. The Board shall be composed of representatives of national regulatory authorities or bodies referred to in Article 30 of Directive 2010/13/EU.</p> <p>2. Each member of the Board shall have one vote.</p> <p>3. Where a Member State has more than one national regulatory authority or body, those regulatory authorities or bodies</p>	<p>1. The Board shall be composed of representatives of national regulatory authorities or bodies referred to in Article 30 of Directive 2010/13/EU.</p> <p>2. Each member of the Board shall have one vote.</p> <p>3. Where a Member State has more than one national regulatory authority or body, those regulatory authorities or bodies</p>



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shall coordinate with each other as necessary and appoint a joint representative which shall exercise the right to vote.

4. The Board shall be represented by its Chair. The Board shall elect a Chair from amongst its members by a two-thirds majority of its members with voting rights. The term of office of the Chair shall be two years.

**5. The Commission shall designate a representative to the Board. The representative of the Commission shall participate in all activities and meetings of the Board, without voting rights. The Chair of the Board shall keep the Commission informed about the ongoing and planned activities of the Board. The Board shall consult the Commission in preparation of its work programme and main deliverables.**

6. The Board, **in agreement with the Commission**, may invite experts and observers to attend its meetings.

7. The Board shall take decisions by a two-thirds majority of its members with voting rights.

8. The Board shall adopt its rules of procedure by a two-thirds majority of its members with voting rights, **in agreement with the Commission.**

shall coordinate with each other as necessary and appoint a joint representative which shall exercise the right to vote.

4. The Board shall be represented by its Chair. The Board shall elect a Chair from amongst its members by a two-thirds majority of its members with voting rights. The term of office of the Chair shall be two years.

**5. deleted**

6. The Board may invite experts and observers to attend its meetings.

7. The Board shall take decisions by a two-thirds majority of its members with voting rights.

8. The Board shall adopt its rules of procedure by a two-thirds majority of its members with voting rights.

## *Justification*

*The proposed European Board for Media Services, which is far too closely intertwined with the European Commission is particularly challenging for a free and independent press. A genuinely independent Board should not make decisions “in agreement” with or “upon the request of” the European Commission.*

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<p><b>Proposal for a regulation</b> Article 11 Secretariat of the Board</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. The Board shall have a secretariat, <b>which shall be provided by the Commission.</b></p> <p>2. The main task of the secretariat shall be to contribute to the execution of the tasks of the Board laid down in this Regulation and in Directive 2010/13/EU.</p> <p>3. The secretariat shall provide administrative and organisational support to the activities of the Board. The secretariat shall also assist the Board in carrying out its tasks.</p>	<p>1. The Board shall have a secretariat.</p> <p>2. The main task of the secretariat shall be to contribute to the execution of the tasks of the Board laid down in this Regulation and in Directive 2010/13/EU.</p> <p>3. The secretariat shall provide administrative and organisational support to the activities of the Board. The secretariat shall also assist the Board in carrying out its tasks.</p>
<p><i>Justification</i> <i>Same as above.</i></p>	

<p><b>Proposal for a regulation</b> Article 12 Tasks of the Board</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Without prejudice to the powers granted to the Commission by the Treaties, the Board shall promote the effective and consistent application of this Regulation and of national rules implementing Directive 2010/13/EU throughout the Union. The Board shall:</p> <p>(a) support the Commission, through technical expertise, in ensuring the correct application of this Regulation and the consistent implementation of Directive</p>	<p>Without prejudice to the powers granted to the Commission by the Treaties, the Board shall promote the effective and consistent application of this Regulation and of national rules implementing Directive 2010/13/EU throughout the Union. The Board shall:</p> <p>(a) support the Commission, through technical expertise, in ensuring the correct application of this Regulation and the consistent implementation of Directive</p>

2010/13/EU across all Member States, without prejudice to the tasks of national regulatory authorities or bodies;

(b) promote cooperation and the effective exchange of information, experience and best practices between the national regulatory authorities or bodies on the application of the Union and national rules applicable to media services, including this Regulation and Directive 2010/13/EU, in particular as regards Articles 3, 4 and 7 of that Directive;

(c) advise the Commission, **where requested by it**, on regulatory, technical or practical aspects pertinent to the consistent application of this Regulation and implementation of Directive 2010/13/EU as well as all on other matters related to media services within its competence. **Where the Commission requests advice or opinions from the Board, it may indicate a time limit, taking into account the urgency of the matter;**

(d) **when requested by the Commission**, provide opinions on the technical and factual issues that arise with regard to Article 2(5c), Article 3(2) and (3), Article 4(4), point (c) and Article 28a(7) of Directive 2010/13/EU;

(e) **in agreement with the Commission**, draw up opinions with respect to:

(i) requests for cooperation and mutual assistance between national regulatory authorities or bodies, in accordance with Article 13(7) of this Regulation;

(ii) requests for enforcement measures in case of disagreement between the requesting authority or body and the requested authority or body regarding the

2010/13/EU across all Member States, without prejudice to the tasks of national regulatory authorities or bodies;

(b) promote cooperation and the effective exchange of information, experience and best practices between the national regulatory authorities or bodies on the application of the Union and national rules applicable to media services, including this Regulation and Directive 2010/13/EU, in particular as regards Articles 3, 4 and 7 of that Directive;

(c) advise the Commission on regulatory, technical or practical aspects pertinent to the consistent application of this Regulation and implementation of Directive 2010/13/EU as well as all on other matters related to media services within its competence.

(d) provide opinions on the technical and factual issues that arise with regard to Article 2(5c), Article 3(2) and (3), Article 4(4), point (c) and Article 28a(7) of Directive 2010/13/EU;

(e) draw up opinions with respect to:

(i) requests for cooperation and mutual assistance between national regulatory authorities or bodies, in accordance with Article 13(7) of this Regulation;

(ii) requests for enforcement measures in case of disagreement between the requesting authority or body and the requested authority or body regarding the

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<p>actions recommended pursuant to Article 14(4) of this Regulation;</p> <p>(iii) national measures concerning media service providers established outside of the Union, in accordance with Article 16(2) of this Regulation;</p> <p>(f) <b>upon request of the Commission</b>, draw up opinions with respect to:</p> <p>(...)</p>	<p>actions recommended pursuant to Article 14(4) of this Regulation;</p> <p>(iii) national measures concerning media service providers established outside of the Union, in accordance with Article 16(2) of this Regulation;</p> <p>(f) draw up opinions with respect to:</p> <p>(...)</p>
<p><i>Justification</i></p> <p><i>Same as above.</i></p>	

## Limiting the task of the European Board to substantial cross-border concentration

<p><b>Proposal for a regulation</b> Article 12 Tasks of the Board</p>	
<p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</i></p>
<p>Without prejudice to the powers granted to the Commission by the Treaties, the Board shall promote the effective and consistent application of this Regulation and of national rules implementing Directive 2010/13/EU throughout the Union. The Board shall:</p> <p>(...)</p> <p>(f) upon request of the Commission, draw up opinions with respect to:</p> <p>(i) national measures which are likely to affect the functioning of the internal</p>	<p>Without prejudice to the powers granted to the Commission by the Treaties, the Board shall promote the effective and consistent application of this Regulation and of national rules implementing Directive 2010/13/EU throughout the Union. The Board shall <b>only have competence regarding concentrations of media service providers with substantial cross-border implications. Matters with limited or no cross-border impact remain the sole and exclusive competence of national authorities. The Board may not intervene in national media markets.</b> The Board shall:</p> <p>(...)</p> <p>(f) upon request of the Commission, draw up opinions with respect to:</p> <p>(i) national measures which are likely to affect the functioning of the internal</p>

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market for media services, in accordance with Article 20(4) of this Regulation;  
(ii) media market concentrations which are likely to affect the functioning of the internal market for media services, in accordance with Article 22(1) of this Regulation;

(g) draw up opinions on draft national opinions or decisions assessing the impact on media pluralism and editorial independence of a notifiable media market concentration where such a concentration may affect the functioning of the internal market, in accordance with Article 21(5) of this Regulation;

(h) assist the Commission in drawing up guidelines with respect to:

(i) the application of this Regulation and of the national rules implementing Directive 2010/13, in accordance with Article 15(2) of this Regulation.

(ii) factors to be taken into account when applying the criteria for assessing the impact of media market concentrations, in accordance with Article 21(3) of this Regulation;

market for media services, in accordance with Article 20(4) of this Regulation;  
(ii) **substantial cross-border** media market concentrations which are likely to significantly affect the functioning of the internal market for media services, in accordance with Article 22(1) of this Regulation;

(g) draw up opinions on draft national opinions or decisions assessing the impact on media pluralism and editorial independence of a notifiable **substantial cross-border** media market concentration where such a concentration may significantly affect the functioning of the internal market, in accordance with Article 21(5) of this Regulation;

(h) assist the Commission in drawing up guidelines with respect to:

(i) the application of this Regulation and of the national rules implementing Directive 2010/13, in accordance with Article 15(2) of this Regulation.

(ii) factors to be taken into account when applying the criteria for assessing the impact of **substantial cross-border** media market concentrations, in accordance with Article 21(3) of this Regulation;

## *Justification*

*The Board, which is meant to replace the existing ERGA, should not start regulating the press at EU level, especially given the many national initiatives to protect the freedom of the press and its journalists and the existing European Commission's powers on cross-border concentrations.*

*The amendment clarifies that regulating media market concentrations should only take place in certain qualified cases of cross-border activity, which has a substantial impact on more than one national media market.*

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<b>Proposal for a regulation</b> Article 21(2) Assessment of <b>cross-border</b> media market concentrations	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(2) In the assessment referred to in paragraph 1, the following elements shall be taken into account:</p> <p>(a) the impact of the concentration on media pluralism, including its effects on <b>the formation of public opinion and on the diversity of media players</b> on the market, taking into account the online environment and the parties' interests, links or activities in other media or non-media businesses;</p> <p>(b) the safeguards for editorial independence, including the impact of the concentration on the functioning of the editorial teams and the existence of measures by media service providers taken with a view to guaranteeing the independence of individual editorial decisions;</p> <p>(c) whether, in the absence of the concentration, the acquiring and acquired entity would remain economically sustainable, <b>and whether there are any possible alternatives to ensure its economic sustainability.</b></p>	<p>(2) In the assessment referred to in paragraph 1, the following elements shall be taken into account:</p> <p>(a) the impact of the concentration on media pluralism, including its effects on the diversity of media <b>services</b> on the market, taking into account the online environment and the parties' interests, links or activities in other media or non-media businesses;</p> <p>(b) the safeguards for editorial independence, including the impact of the concentration on the functioning of the editorial teams and the existence of measures by media service providers taken with a view to guaranteeing the independence of individual editorial decisions, <b>in line with national laws and self-regulation.</b></p> <p>(c) whether, in the absence of the concentration, the acquiring and acquired entity would remain economically sustainable <b>in the short and medium term, and whether the concentration would stimulate investments.</b></p> <p><b>(d) media economic and operational sustainability and competition with very large online platforms and publicly funded public service broadcasters.</b></p>
<p><i>Justification</i></p> <p><i>Paragraph (a): Assessing the "formation of public opinion" could amount to an evaluation on the substance of the content of publications or programs by the government or a supervision body. This should be avoided at all costs to maintain a free media. Media pluralism should be understood as the diversity of media services.</i></p>	

*Paragraph (b): Existing national safeguards (e.g. national laws, effective and well-established self-regulation, safeguards for editorial independence) should duly be taken into account.*

*Paragraph(c): The EU should not create hurdles or new layers of rules related to media mergers. In other words, media mergers must be allowed, not only in situations where a media company needs the transaction for financial sustainability in the short and medium term, but also for competitiveness and to stimulate investments. Also, Article 21 should make it easier to merge in economic challenging times to uphold pluralism and a vital news media sector.*

*Paragraph (d): Fixing market asymmetries with global tech companies, and sometimes public service media, is needed for media survival, competitiveness and sustainability. In the digital environment, competition for users' attention, sale of advertising space and subscriptions need to be taken into account. Moreover, it is important that local and regional audiences can continue to be served with high-quality local and regional journalism.*

## Proposal for a regulation

Article 22

Assessment of **cross-border** media market concentrations

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. In the absence of an assessment or a consultation pursuant to Article 21, the Board, upon request of the Commission, shall draw up an opinion on the impact of a media market concentration on media pluralism and editorial independence, where a media market concentration is likely to affect the functioning of the internal market for media services. The Board shall base its opinion on the elements set out in Article 21(2).The Board may bring media market concentrations likely to affect the functioning of the internal market for media services to the attention of the Commission.</p>	<p>1. In the absence of an assessment or a consultation pursuant to Article 21, the Board, upon request of the Commission, shall draw up an opinion on the impact of a media market concentration on media pluralism <b>including safeguards for</b> editorial independence, where a media market concentration is likely to <b>significantly</b> affect the functioning of the internal market for media services. The Board shall base its opinion on the elements set out in Article 21(2).The Board may bring media market concentrations likely to <b>significantly</b> affect the functioning of the internal market for media services to the attention of the Commission.</p>

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<i>Justification</i>
<p><i>It would be more precise and consistent to refer to 'safeguards for editorial independence' in the media pluralism assessment (see Art.21(2)b). An assessment of the framework to guarantee editorial independence is more suitable to keep a regulator at arm's length from editorial processes and the way editorial teams work on a day-to-day basis.</i></p> <p><i>We also suggest, consistent with EU Competition Law to provide the Board with advisory powers only over cross-border concentrations that "significantly" affect trade between Member States and the functioning of the single market.</i></p>

<p><b>Proposal for a regulation</b> Recital 44</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>With a view to ensuring pluralistic media markets, the national authorities or bodies and the Board should take account of a set of criteria. In particular, impact on media pluralism should be considered, <b>including notably the effect on the formation of public opinion</b>, taking into account of the online environment. Concurrently, it should be considered whether other media outlets, providing different and alternative content, would still coexist in the given market(s) after the media market concentration in question. Assessment of safeguards for editorial independence should include the examination of potential risks of undue interference by the prospective owner, management or governance structure in the individual editorial decisions of the acquired or merged entity. The existing or envisaged internal safeguards aimed at preserving independence of the individual editorial decisions within the media undertakings involved should also be taken into account. In assessing the potential impacts, the effects of the concentration in question on the</p>	<p>With a view to ensuring pluralistic media markets, the national authorities or bodies and the Board should take account of a set of criteria. In particular, impact on media pluralism, <b>meaning on the diversity of media services</b>, should be considered, taking into account of the online environment. Concurrently, it should be considered whether other media outlets, providing different and alternative content, would still coexist in the given market(s) after the media market concentration in question. Assessment of safeguards for editorial independence should include the examination of potential risks of undue interference by the prospective owner, management or governance structure in the individual editorial decisions of the acquired or merged entity. The existing or envisaged internal safeguards aimed at preserving independence of the individual editorial decisions within the media undertakings involved should also be taken into account. In assessing the potential impacts, the effects of the concentration in question on the economic sustainability</p>



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<p>economic sustainability of the entity or entities subject to the concentration should also be considered and whether, in the absence of the concentration, they would be economically sustainable, in the sense that they would be able in the medium term to continue to provide and further develop financially viable, adequately resourced and technologically adapted quality media services in the market.</p>	<p>of the entity or entities subject to the concentration should also be considered and whether, in the absence of the concentration, they would be economically sustainable, in the sense that they would be able in the <b>short and medium term</b> to continue to provide and further develop financially viable, adequately resourced and technologically adapted quality media services in the market. <b>Consideration should also be given to whether concentration would stimulate investments and a vital media market. The assessment should also take into account competition with online platforms and publicly funded public service broadcasters.</b></p>
<p><i>Justification</i></p> <p><i>Same as above.</i></p>	

## Ensuring fair competition with public service media

<p><b>Proposal for a regulation</b> Article 5 Safeguards for the independent functioning of public service media providers</p>	
<p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</i></p>
<p>3. Member States shall ensure that public service media providers have adequate and stable financial resources for the fulfilment of their public service mission. Those resources shall be such that editorial independence is safeguarded.</p> <p>4. Member States shall designate one or more independent authorities or bodies in order to monitor compliance with paragraphs 1 to 3.</p>	<p>3. Member States shall ensure that public service media providers have adequate and stable financial resources for the fulfilment of their public service mission, <b>subject to EU state aid rules.</b> Those resources shall be such that editorial independence is safeguarded. <b>Member States shall ensure that the scope of the public service mission of public service broadcasters does not interfere with private media offerings, to the extent that private offerings are threatened in their earning capacity or audience reach.</b></p> <p>4. Member States shall designate one or more independent authorities or bodies in</p>

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	order to monitor compliance with paragraphs 1 to 3. <b>Such entity must be functionally and structurally independent from the government and legally independent from the public service media provider.</b>
<i>Justification</i>	
<i>The scope of public service media should not distort market competition to ensure ample room in the market for private media offerings.</i>	
<i>The owner of a public service media provider (government entity) cannot also be the regulator of public service media providers (independent entity).</i>	

<b>Proposal for a regulation</b> Recital 18	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Public service media established by the Member States play a particular role in the internal media market, by ensuring that citizens and businesses have access to quality information and impartial media coverage, as part of their mission. (...)	Public service media established by the Member States <b>and subject to EU state aid rules and the Amsterdam Protocol</b> play a particular role in the internal media market, by ensuring that citizens and businesses have access to quality information and impartial media coverage, as part of their mission. (...)
<i>Justification</i>	
<i>Existing laws, such as the Amsterdam Protocol and the European Commission's Broadcasting Communication (2009), define the special nature of public service media and safeguards against market distortions. These rules should be acknowledged in the Regulation.</i>	

## Protecting access to editorial content on very large online platforms

<b>Proposal for a regulation</b> Article 17 <b>Availability of content of media service providers on very large online platforms</b>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. Where a provider of very large online platform decides to suspend the provision of its online intermediation services in	2. Where a provider of very large online platform decides to suspend <b>or restrict</b> the provision of its online intermediation

relation to content provided by a media service provider that submitted a declaration pursuant to paragraph 1 of this Article, on the grounds that such content is incompatible with its terms and conditions, without that content contributing to a systemic risk referred to in Article 26 of the Regulation (EU) 2022/XXX [Digital Services Act], it shall **take all possible measures, to the extent consistent with their obligations under Union law, including Regulation (EU) 2022/XXX [Digital Services Act], to** communicate to the media service provider concerned **the statement of** reasons accompanying that decision, as required by Article 4(1) of Regulation (EU) 2019/1150, prior to the suspension taking effect.

3. Providers of very large online platforms shall take all the necessary technical and organisational measures to ensure that complaints under Article 11 of Regulation (EU) 2019/1150 by media service providers that submitted a declaration pursuant to paragraph 1 of this Article are processed and decided upon with priority and **without undue delay.**

4. Where a media service provider that submitted a declaration pursuant to paragraph 1 considers that a provider of very large online platform frequently restricts or suspends the provision of its services in relation to content provided by the media service provider without sufficient grounds, the provider of very large online platform shall engage in a meaningful and effective dialogue with the media service provider, upon its request, in good faith with a view to finding an amicable solution for terminating unjustified restrictions or suspensions and avoiding them in the

services in relation to content **or services** provided by a media service provider that submitted a declaration pursuant to paragraph 1 of this Article, on the grounds that such content is incompatible with its terms and conditions, without that content contributing to a systemic risk referred to in Article 26 of the Regulation (EU) 2022/XXX [Digital Services Act], it shall communicate to the media service provider concerned **concrete, meaningful and justified** reasons accompanying that decision. **The statement of reasons shall contain a reference to the specific facts or circumstances, including contents of third party notifications, that led to the decision of the provider of online intermediation services, as well as a reference to the applicable grounds for that decision,** as required by Article 4(1) of Regulation (EU) 2019/1150, prior to the suspension taking effect.

3. Providers of very large online platforms shall take all the necessary technical and organisational measures to ensure that complaints under Article 11 of Regulation (EU) 2019/1150 by media service providers that submitted a declaration pursuant to paragraph 1 of this Article are processed and decided upon with priority and **within 24 hours. If the very large online platform fails to address the complaint within 24 hours, it shall make the content or service accessible and visible again.**

4. Where a media service provider that submitted a declaration pursuant to paragraph 1 considers that a provider of very large online platform frequently restricts or suspends the provision of its services in relation to content **or service** provided by the media service provider without sufficient grounds, the provider of

future. The media service provider may notify the outcome of such exchanges to the Board.

very large online platform shall engage in a meaningful and effective dialogue with the media service provider, upon its request, in good faith with a view to finding an amicable solution **within a reasonable timeframe** for terminating unjustified restrictions or suspensions and avoiding them in the future, **without prejudice to the right to effective judicial protection guaranteed to each natural and legal person**. The media service provider may notify the outcome of such exchanges to the Board.

### *Justification*

*This provision serves several purposes: it ensures citizens' access to information and to quality content provided by regulated or self-regulated media, thus reducing exposure to possibly harmful content.*

*It also prevents VLOPs from restricting freedom of expression and to impart information based on their own terms and conditions, and from arbitrarily setting the boundaries of free speech in Europe. Not only is it a business critical matter for media, but also an important cultural and democratic sovereignty issue. Platforms should not remain unsupervised when deciding what content European citizens can or cannot access.*

*From a practical point of view, media service providers spend considerable time and resources monitoring the internet and trying to get in contact with the platforms about unjustified takedowns of editorial content or account deletions. Therefore platforms should proactively notify decisions affecting editorial content within strict deadlines.*

*The platform's statement of reasons should be concrete, justified and avoid general email notifications, in line with the P2B regulation Article 4(1) which describes what a good statement of reasons should look like. News being a public good, it is reasonable to expect human oversight to avoid for instance the automatic deletion of war and terrorism reporting.*

*Press publishers' complaints should be treated "within 24 hours", given the short lifespan of news content.*

*The timeframe for amicable solutions should be a reasonable one, given the very short lifespan of news content.*

*Finally, the amicable process shall not preclude media service providers from exercising their rights before competent courts.*

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<p><b>Proposal for a regulation</b> Recital 33</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>To this end, providers of very large online platforms should provide a functionality on their online interface to enable media service providers to declare that they meet certain requirements, while at the same time retaining the possibility not to accept such self-declaration where they consider that these conditions are not met. Providers of very large online platforms may rely on information regarding adherence to these requirements, <b><i>such as the machine-readable standard of the Journalism Trust Initiative or other relevant codes of conduct</i></b>. Guidelines by the Commission may be useful to facilitate an effective implementation of such functionality, including on modalities of involvement of relevant civil society organisations in the review of the declarations, on consultation of the regulator of the country of establishment, where relevant, and address any potential abuse of the functionality.</p>	<p>To this end, providers of very large online platforms should provide a functionality on their online interface to enable media service providers to declare that they meet certain requirements, while at the same time retaining the possibility not to accept such self-declaration where they consider that these conditions are not met. Providers of very large online platforms may rely on information regarding adherence to these requirements. Guidelines by the Commission may be useful to facilitate an effective implementation of such functionality, including on modalities of involvement of relevant civil society organisations in the review of the declarations, on consultation of the regulator of the country of establishment, where relevant, and address any potential abuse of the functionality.</p>
<p><i>Justification</i></p> <p><i>Self-regulation and transparency are key ingredients to promote trust in media and media freedom. To avoid any risks of intervention in media service providers' editorial policies, we support initiatives driven and applied by the press. But it is not for the MFA to privilege certain journalistic standards above others.</i></p>	

## [Applying fair audience measurement systems, including for local media](#)

<p><b>Proposal for a regulation</b> Article 23 Audience measurement</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

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<p>3. National regulatory authorities or bodies shall encourage the drawing up of codes of conduct by providers of audience measurement systems, together with media service providers, their representative organisations and any other interested parties, that are intended to contribute to compliance with the principles referred to in paragraph 1, including by promoting independent and transparent audits.</p>	<p>3. National regulatory authorities or bodies shall encourage the drawing up of codes of conduct by providers of audience measurement systems, <b>including online platforms</b>, together with media service providers, their representative organisations and any other interested parties, that are intended to contribute to compliance with the principles referred to in paragraph 1, including by promoting independent and transparent audits.</p> <p><b>(...)</b></p> <p><b>6. In the drawing up of codes of conduct, special consideration should be given to small media to ensure proper measurements of their audiences.</b></p>
<p style="text-align: center;"><i>Justification</i></p> <p style="text-align: center;"><i>As media consumption on online platforms play an important role in the consumption of journalism online, this should also be acknowledged in the Regulation. For instance, traffic coming from Google Discover, Google AMP, YouTube or Facebook IA should be attributed to the media.</i></p> <p style="text-align: center;"><i>Also, local media do not have the size to be monitored by audience measurements. In Spain for instance, digital audiences are measured by GFK that takes the region as the measured territory whereas local media requires measurement at province or city level.</i></p>	

## Enforcing the rights of media service providers before independent complaint bodies

<p><b>Proposal for a regulation</b> Article 4 Rights of media service providers</p>	
<p style="text-align: center;"><i>Text proposed by the Commission</i></p>	<p style="text-align: center;"><i>Amendment</i></p>
<p>2. Member States shall <b>respect</b> effective editorial freedom of media service providers. Member States, including their national regulatory authorities and bodies, shall not:</p>	<p>2. Member States shall <b>guarantee</b> effective editorial freedom of media service providers. Member States, including their national regulatory authorities and bodies, shall not:</p>

3. Without prejudice and in addition to the right to effective judicial protection guaranteed to each natural and legal person, Member States shall designate **an** independent authority or body to handle complaints lodged by media service providers or, if applicable, their family members, their employees or their family members, regarding breaches of paragraph 2, points (b) and (c). Media service providers shall have the right to request that authority or body to issue, within **three** months of the request, an opinion regarding compliance with paragraph 2, points (b) and (c).

3. Without prejudice and in addition to the right to effective judicial protection guaranteed to each natural and legal person, Member States shall designate a legally, **functionally and structurally** independent authority or body to handle complaints lodged by media service providers or, if applicable, their family members, their employees or their family members, regarding breaches of paragraph 2, points (b) and (c). Media service providers shall have the right to request that authority or body to issue, within **one** month of the request, an opinion regarding compliance with paragraph 2, points (b) and (c).

**4. The designation and functioning of complaint bodies shall be assessed by the European Commission during the monitoring phase referred to in Article 25 of this Regulation.**

#### *Justification*

*We should be more ambitious and require Member States not only to ‘respect’ but rather ‘guarantee’ effective editorial freedom, in full respect of industry self-regulation.*

*Concretely, media service providers must be able to quickly challenge administrative decisions that are unfair or disproportionate before national courts and independent complaint bodies. We propose to reduce the waiting period to receive an opinion from 3 months to 1 month, to guarantee a higher level of protection and effective enforcement of media service providers’ rights.*

*Also, this complaint body must be independent from all points of view, not accept instructions from political parties, state institutions or individuals.*

*During the monitoring phase of Article 25, Member States must be held accountable for the designation of legally and functionally independent complaint bodies, such as a national human rights commission, ombudsperson, or any other independent entity, as recommended by the Council of Europe in its [Recommendation on the protection of journalism of 2016](#).*

#### **Proposal for a regulation**

Article 25

Monitoring exercise

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>3. The monitoring exercise shall include:</p> <p>(...)</p>	<p>3. The monitoring exercise shall include:</p> <p><b><i>(a)(new): a list of the complaint bodies put in place by the Member States to enforce media companies' rights referred to in Article 4, their role, characteristics and independence safeguards.</i></b></p>
<p><i>Justification</i></p> <p><i>See above.</i></p>	

## Taking social networks into account in state advertising rules

<p><b>Proposal for a regulation</b>                      Article 24                      Allocation of state advertising</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. Public funds or any other consideration or advantage granted by public authorities to media service providers for the purposes of advertising shall be awarded according to transparent, objective, proportionate and non-discriminatory criteria and through open, proportionate and non-discriminatory procedures. This Article shall not affect public procurement rules.</p> <p>2. Public authorities, including national, federal or regional governments, regulatory authorities or bodies, as well as state-owned enterprises or other state-controlled entities at the national or regional level, or local</p>	<p>1. Public funds or any other consideration or advantage granted by public authorities to media service providers <b><i>and online platforms</i></b> for the purposes of advertising shall be awarded according to transparent, objective, proportionate and non-discriminatory criteria and through open, proportionate and non-discriminatory procedures. This Article shall not affect public procurement rules.</p> <p>2. Public authorities, including national, federal or regional governments, regulatory authorities or bodies, as well as state-owned enterprises or other state-controlled entities at the national or regional level, or local</p>



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<p>governments of territorial entities of more than 1 million inhabitants, shall make publicly available accurate, comprehensive, intelligible, detailed and yearly information about their advertising expenditure allocated to media service providers, which shall include at least the following details:</p> <p>(a) the legal names of media service providers from which advertising services were purchased;</p> <p>(b) the total annual amount spent as well as the amounts spent per media service provider.</p>	<p>governments of territorial entities of more than 1 million inhabitants shall make publicly available accurate, comprehensive, intelligible, detailed and yearly information about their advertising expenditure allocated to media service providers, which shall include at least the following details:</p> <p>(a) the legal names of media service providers from which advertising services were purchased;</p> <p>(b) the total annual amount spent as well as the amounts spent per media service provider.</p> <p><b><i>(c) a description and estimated value of each public funding or any other consideration or advantage.</i></b></p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>Stronger transparency rules are needed to allow an assessment of how state advertising is shared in a fair and non-discriminatory manner across media players.</i></p> <p><i>The rule should extend to online platforms that receive significant amounts of state advertising, often diverted from traditional media, despite the contribution of all players to the media ecosystem.</i></p> <p><i>The transparency obligation should include a description of the type of benefit sent (e.g. advertising, sponsorship, grants, donations) and its value.</i></p>	

## Transparency of funding from third-country administrations

<p><b>Proposal for a regulation</b> New Article 24a Allocation of public funding from third-countries</p>	
<p style="text-align: center;"><i>Text proposed by the Commission</i></p>	<p style="text-align: center;"><i>Amendment</i></p>
	<p><b><i>Any media service provider or online platform which receives public funds or any other consideration or advantage for the purposes of advertising from</i></b></p>

	<p><i>third-countries shall annually submit a report to the national regulatory authority or body which shall include at least the following details:</i></p> <p><i>(a) the legal names of the entities granting public funds or other consideration or advantage;</i></p> <p><i>(b) the total annual amount of the public funds granted by each such entity;</i></p> <p><i>(c) a description and estimated value of each public funding or any other consideration or advantage.</i></p> <p><i>The information reported according to this paragraph shall be made publicly available.</i></p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>Creating this obligation on media service providers would ensure that funding coming from public authorities from states outside of the European Union is publicly disclosed. This is consistent with the objective of tackling undue influence and preserving the independence of European media.</i></p>	