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From: General Secretariat of the Council  
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Subject: Safeguarding a free media system - Rethinking media pluralism  
- *Presidency discussion paper*  
- *Exchange of views*

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Delegations will find attached a discussion paper prepared by the Presidency with a view to the informal videoconference of the members of the Audiovisual Working Party on 15 July 2020.

## **Safeguarding a free media system**

### Rethinking media pluralism

#### *Presidency discussion paper*

Both traditional and digital media companies have seen a significant increase in demand during the COVID-19 pandemic. Access to reliable information and diverse content is a central part of freedom of information and opinion, and a cornerstone of the democratic opinion-forming process. The prerequisite for guaranteeing this central democratic function of the media is a strong, diverse, independent and resilient media landscape in Europe. This includes, on the one hand, the plurality of providers (i.e. diverse media players, types of media and ownership) and, on the other hand, a diversity of content (i.e. the greatest possible variety of information, ideas and points of view).

Especially in times of crisis, such as the COVID-19 pandemic, when people are specifically looking for reliable sources of information and trustworthy content, the importance of a free media landscape with a diverse range of independent media and opinions becomes particularly clear.

However, in an attention economy, which is designed to maximise clicks, sensationalist headlines frequently attract more attention than reliable news. This - and even more so the increased dissemination of disinformation - highlights the particular importance of media pluralism and of the availability and accessibility of reliable sources of information. In addition, crises should not lead to a restriction of publicly accessible information sources nor limit freedom of expression. On the contrary, recognition of the media as critical infrastructure can give the media sector special privileges in times of crisis and help it to continue to perform its important function of stabilising democracy.

Safeguarding media pluralism primarily lies within the competence of EU Member States. Nevertheless, the European Union, too, is committed to respecting the freedom and pluralism of the media and freedom of expression in accordance with Article 11 of the Charter of Fundamental Rights of the EU. Some of the initiatives announced by the European Commission for the next few years (Digital Services Act, Media and Audiovisual Action Plan, EU Action Plan on Democracy and Human Rights) will have considerable relevance for future developments and will be important in configuring the political and legal framework for the media sector in Europe.

#### Financial stability of the media and its influence on media pluralism

Today, small local and regional media companies in particular are struggling with even greater financial difficulties because of the current crisis and related advertising losses. However, many traditional media companies already had to reconsider their financing models before the COVID-19 pandemic.

One factor that greatly affects the financial situation of media companies is the ability of global platforms to display targeted - and therefore, for advertisers, more attractive – advertising. Due to the large amount of user data they gather, they have an enormous advantage over traditional media. Network effects also contribute to this development, and have significantly affected the traditional business models of many media companies and changed our media environment. Declining advertising revenues and circulation figures make it increasingly difficult for medium-sized media companies to finance well-researched and carefully prepared information and media coverage. A viable business model that also allows a fair share of revenues in line with performance has not yet been established for content providers online. Possible approaches to a solution differ widely as, for instance, the intense discussions on whether publishers should be able to claim copyright have shown.

A further consequence of these developments is a trend towards concentration, for example in the form of mergers, acquisitions, buyouts of media outlets or the merging of editorial offices. These developments, in addition to the usual problems of exploiting market power, can also lead to a concentration of the power to influence opinion. The adequate financing of media services - whether local, regional, national or European - is therefore not only relevant for the financing of professional journalism and the production of reliable content, but also for the preservation of a diverse media landscape in general.

### Platforms and their influence on media pluralism

Increasingly, content is no longer accessed directly through classic media providers, but via platforms, which are usually not content producers themselves but act as ‘gatekeepers’. Platforms today therefore have a considerable influence on what the individual user is able to see, as they organise the access, the findability and the visibility of content. Platforms thus play a crucial role in the formation of the individual user’s opinion, while professional journalism and the ‘classic’ media no longer have such a prominent role in interpreting social, economic and political developments. The social responsibility which comes with these developments for the platforms shows that their role goes far beyond that of mere economic actors. Today, it is therefore no longer a question of only ensuring a diverse range of reliable information and well-edited content, but increasingly of ensuring open access so that citizens can find their bearings and independently form opinions despite a deluge of information. Fundamental issues such as the findability of content on the internet, non-discrimination, equal opportunities, transparency and user autonomy are therefore playing an increasingly important role in today's media regulation, and will continue to do so in the future.

## Effective law enforcement

Digitalisation makes content accessible across borders, which is important in terms of media plurality. However, differing levels of effective law enforcement within the EU give global operators a competitive advantage that counteracts the objective of media pluralism. The imbalance between major market players and local and regional suppliers can be exacerbated by the absence of a level playing field. This can arise from a lack of effective enforcement if providers who offer their content across borders do not adhere to the same legal framework as local and regional media outlets.

The lack of established mechanisms for cross-border law enforcement and the effective prosecution of, for example, hate speech or harmful content for minors online also has a direct effect on the opinion-forming process in our society. For fear of attacks, some parts of society are deliberately refraining from participating in public debates online or adapting their statements or behaviour in online discourses. Thus, ineffective law enforcement can lead to a situation in which one-sided, false or manipulative content dominates the discourse. Participatory and discursive processes online therefore often do not represent a true cross-section of society and show a distorted spectrum of opinions. This further underlines the need for well-researched and carefully prepared media coverage.

## Conclusion

The pandemic has acted as a catalyst and has exposed or exacerbated many media policy problems. We have been made very aware of the importance of the media, but also of the fragility of the media ecosystem. We should therefore seize the opportunity, while respecting the competences of the Member States and taking into account our different social, societal and cultural characteristics, to jointly design ways to ensure and strengthen media pluralism and freedom of expression throughout the European Union.

**The Presidency therefore invites delegations to answer the following questions with a view to promoting a discussion on how to stabilise a free media system by safeguarding media pluralism at European and national level:**

1. Regulation on safeguarding media pluralism was oriented towards conventional media and primarily aimed at ensuring a variety of providers and content. Has this concept of media pluralism changed in your view? And if yes, what are the relevant factors?
2. Free access to reliable and diverse information is of crucial importance, especially in times of crisis. Which major challenges for media companies have been highlighted or intensified by the crisis? How can media policy help to overcome these challenges?
3. An increasing volume of EU regulation, such as regulation in the area of the digital single market, has a major impact on the media. What structural changes or adaptations could be made at EU level to ensure that the overarching objectives of media pluralism and freedom of speech are duly preserved?
4. Digital platforms offer a variety of information and content. What requirements such as accessibility, transparency and non-discrimination must be fulfilled by platforms so that their role as gatekeepers is consistent with the objectives of media pluralism and freedom of speech?
5. How can we establish principles and define criteria that guarantee the findability of reliable information?
6. With a vast amount of content available across borders, what is necessary to ensure that Member States and national regulatory authorities are able to enforce the existing (national and European) rules for media regulation that safeguard media pluralism and encourage freedom of expression?