

MONITORING MEDIA PLURALISM IN THE DIGITAL ERA

APPLICATION OF THE MEDIA PLURALISM MONITOR IN THE EUROPEAN UNION, ALBANIA, MONTENEGRO, THE REPUBLIC OF NORTH MACEDONIA, SERBIA & TURKEY IN THE YEAR 2020

Country report: Ireland

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Research Project Report

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1. About the project

1.1. Overview of the Project

The Media Pluralism Monitor (MPM) is a research tool designed to identify potential risks to media pluralism in the Member States of the European Union and in candidate countries. This narrative report has been produced on the basis of the implementation of the MPM carried out in 2020. The implementation was conducted in 27 EU Member States, as well as in Albania, Montenegro, the Republic of North Macedonia, Serbia and Turkey. This project, under a preparatory action of the European Parliament, was supported by a grant awarded by the European Commission to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

1.2. Methodological note

Authorship and review

The CMPF partners with experienced, independent national researchers to carry out the data collection and author the narrative reports, except in the case of Italy where data collection is carried out centrally by the CMPF team. The research is based on a standardised questionnaire developed by the CMPF.

In Ireland the CMPF partnered with Roderick Flynn (School of Communications, Dublin City University), Eoin O'dell (Trinity College Dublin), who conducted the data collection, scored and commented on the variables in the questionnaire and interviewed experts. The report was reviewed by the CMPF staff. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly evaluative questions (see Annexe II for the list of experts). For a list of selected countries, the final country report was peer-reviewed by an independent country expert.

Risks to media pluralism are examined in four main thematic areas: Fundamental Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area (see Table 1).

Fundamental Protection	Market Plurality	Political Independence	Social Inclusiveness
Protection of freedom of expression	Transparency of media ownership	Political independence of media	Access to media for minorities
Protection of right to information	News media concentration	Editorial autonomy	Access to media for local/regional communities and for community media
Journalistic profession, standards and protection	Online platforms concentration and competition enforcement	Audiovisual media, online platforms and elections	Access to media for women
Independence and effectiveness of the media authority	Media viability	State regulation of resources and support to media sector	Media Literacy
Universal reach of traditional media and access to the Internet	Commercial & owner influence over editorial content	Independence of PSM governance and funding	Protection against illegal and harmful speech

Table 1: Areas and Indicators of the Media Pluralism Monitor

The digital dimension

The Monitor does not consider the digital dimension to be an isolated area but rather as intertwined with traditional media and existing principles of media pluralism and freedom of expression. Nevertheless, the Monitor also extracts digital-specific risk scores and the report contains a specific analysis of risks related to the digital news environment.

The calculation of risk

The results for each thematic area and indicator are presented on a scale from 0 to 100%.

Scores between 0 and 33%: low risk

Scores between 34 to 66%: medium risk

Scores between 67 and 100%: high risk

With regard to indicators, scores of 0 are rated 3% while scores of 100 are rated 97% by default, to avoid an assessment of total absence or certainty of risk.

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF, nor the position of the members composing the Group of Experts. It represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, MPM2021 scores may not be fully comparable with previous editions of the MPM. For more details regarding the project, see the CMPF report on MPM2021, soon available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

2. Introduction

- **Population:** The Republic of Ireland occupies 70,274 kilometres across 26 of the 32 counties on the island of Ireland. The last census (in 2016) put the population at 4.7m people (and probably closer to 4.94m as of 2020).
- **Languages:** There are two official languages: English (spoken by 99% of the population) and Irish. Though 40% of the population claim linguistic competence in Irish less than 2% use it on a daily basis. Indeed, nearly twice as many residents routinely speak Polish (120,000) as compared with those who speak Irish (70,000).
- **Minorities:** Until relatively recently (i.e., the 1990s), the weakness of the Irish economy contributed to a high level of emigration (and, conversely, a low level of immigration). In consequence, Irish society has long been ethnically homogenous with the Travelling Community as the only ethnic minority (a status formally recognised in 2017). This has altered somewhat more recently and, as of 2016, just 83% of the population regard themselves as “White Irish” or “White Irish Travellers”. Of the remainder, 9.5% identify as “White”, 1.4% identify as “Black” and a further 2.4% identify as “Asian”.
- **Economic situation:** Assessments of the Irish economy are complicated by the significant presence of Foreign Direct Investment with the result that – unusually - Irish GDP is about 10% greater than Irish GNP. Furthermore, the use of tax inversion strategies by multinational companies makes Gross Domestic Product (GDP) an unreliable indicator of Irish economic health. (Since 2017, the Irish Central Bank has instead relied upon Gross National Income (GNI).) The Irish economy has substantially recovered from the 2008 economic crash: GDP has nearly doubled since 2013 and – uniquely within the EU – even grew 3.4% through the pandemic conditions of 2020 (due largely to exports from multinationals) to reach €357bn. Unemployment rates had also fallen from their early 2012 peak of 16% to 4.8% by February 2020. However, the impact of COVID-19 has clearly transformed this. Although the seasonally adjusted rate had reached 5.8% unemployment by February 2021, the (hopefully) temporary layoffs of staff resulting from the closure of all but essential retail activity during the lengthy lockdowns means that the “COVID-19 Adjusted Unemployment Rate” reached 24.8% the same month. (This rate estimates what the unemployment rate would be if all those in receipt of the **temporary Pandemic Unemployment Payment were classed as unemployed.**)
- **Political situation:** Politically, Ireland has undergone a period of transition. The formerly dominant Fianna Fail and Fine Gael parties have seen their combined vote share fall from more than 80% in the 1980s to 43% by February 2020. Both were surpassed in 2020 by the broadly leftist/republican Sinn Fein party. In June 2020 after four months of negotiation, Fianna Fail and Fine Gael entered into their first ever coalition with the additional support of the Green Party. (Ironically, both Fianna Fail and Fine Gael emerged from a 1922 split in an earlier incarnation of Sinn Fein.) While pandemic conditions make an objective assessment difficult it is apparent that the administrative and policy structures of Irish government remain stable and there has been a broad cross-party approval tacit or otherwise) for most aspects of the manner in which the current administration has handled the COVID-19 pandemic.
- **Media market:** Given Ireland’s Anglophone status and prior colonial status, UK-originated media has long played a significant role in Irish media consumption patterns. The two PSM, RTE and TG4, account for approximately 30% of all linear television viewing, while the Irish-based (but US-owned) private Virgin Media channels account for a further 18%. Even with the influx of US international

channels since the 1990s, UK-based channels (BBC, Sky and Channel 4) still account for about 17% of viewership. (However, COVID-19 restrictions encouraging people to stay home has also accelerated the use of non-linear audiovisual services. The number of Irish adults with access to Netflix increased from 49% to 63% in the first so months of 2020 while Disney+ had reached 20% of all Irish adults within three months of its March 2020 launch.) UK-based newspapers also occupy prominent positions in print accounting for 1 in 4 daily and 1 in 3 Sunday sales. (Albeit print sales overall have collapsed halving since the 2008 crash, a decline which COVID-19 conditions have possibly accelerated.) The annual Reuters Digital News Reports suggests that online (including social media) has been the single largest source of news in Ireland since 2015, even if the most of the biggest online news brands are rooted in print and broadcast legacy outlets. Thus RTE remains the most-accessed news source offline and online (although, notably, the digital native TheJournal.ie is the second most accessed online source.)

- **Regulatory environment:** The growing significance of online media as information sources and social media platforms as sites of public discourse has prompted a number of moves to regulate online content. In January 2020, the Minister for Communications introduced an Online Safety and Media Regulation Bill to transpose elements of the revised Audiovisual Media Services Directive, create an Online Safety Commissioner and repurpose the existing Broadcasting Authority of Ireland as a Media Commission with responsibility for the entire audiovisual sector (broadcasting, on-demand audio and visual services, and online platforms including social media sites). The February 2020 election delayed progress on the legislation but it is expected to enter law in 2021. In January 2021, the general scheme of the Electoral Reform Bill was passed which would, inter alia, introduce “regulation of online political advertising in the run-up to electoral events”. Three months later In April 2021, the Minister for Justice published the general scheme of the Criminal Justice (Hate Crime) Bill which would criminalise online and offline communication which incited “hatred against another person or group of people due to their real or perceived association with a protected characteristic.” This legislative activity occurs against the background of the operation of the Future of Media Commission which was established in September 2020. Initially intended to look at how to mitigate threats to the financial viability of PSMs, the scope of the Commission has subsequently been broadened to include an examination of how changing revenue streams, audience behaviour and new technical modes of media consumption challenge ALL media, public or private, legacy or online. In sum then, there is a growing political acknowledgement that the ongoing capacity of media institutions to perform their democratic functions is increasingly under threat.

3. Results from the data collection: assessment of the risks to media pluralism

Ireland's status as a "mature" democracy is reflected in the low risk associated with basic media pluralism indicators. There are strong (though not absolute) constitutional protections for freedom of expression, the 1997 Freedom of Information Act generally works well and the main media regulator, the Broadcasting Authority of Ireland, is generally regarded as independent of state influence.

However, there are real risks to market plurality in Ireland. Media outlets face a number of challenges to their commercial viability. The small scale of the domestic market has always limited the scope for a wide range of commercially viable media outlets and active competition from non-Irish media outlets for offline and online advertising revenue has exacerbated these pressures. Post-2008 financial austerity, the impact of Brexit and the COVID-19 pandemic have further depressed the advertising market. This has particularly impacted upon legacy media outlets as advertising expenditure has increasingly migrated to online platforms which produce little or no original content (news and current affairs or otherwise). For some outlets, especially those entirely reliant on advertising revenues, COVID-19 market conditions may be the final straw: a number of print freesheets suspended operations in 2020 and it is apparent that only an increase in state advertising (addressing COVID-19 measures) have prevented some radio stations facing a similar fate. This also contributes the precarity experienced by media professionals for whom secure employment is increasingly difficult to find. The pervasive sense of crisis was reflected in the state's decision to expand the remit of a Future of Media Commission (established in September 2020) to consider the threats faced by all media in Ireland rather than just the PSMs.

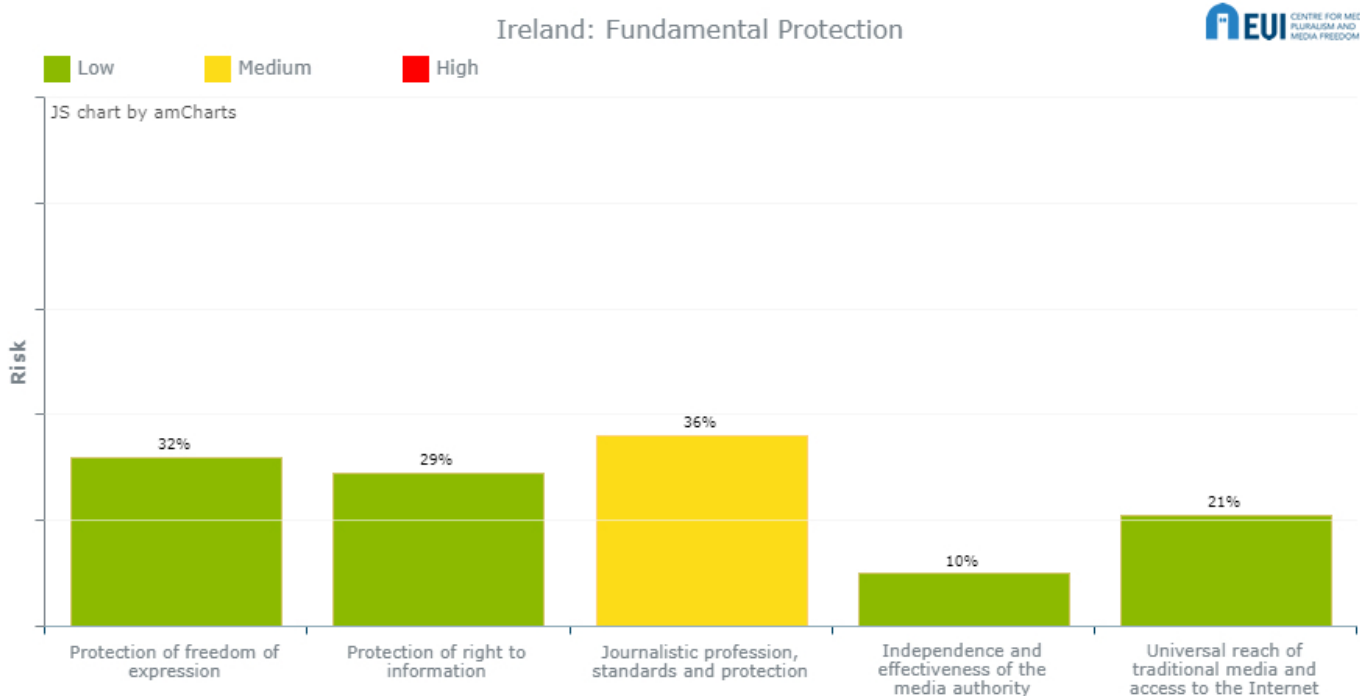
Increasingly, becoming an element of larger international media groups seems to be the only survival option for Irish outlets. (Of the larger players only the PSMs and the Irish Times Group remain locally held.) Such pragmatism must weigh on the thinking of competition enforcement bodies (whether consolidation of media ownership is an acceptable price for the maintenance of a plurality of media outlets) which, in any case, operate in the absence of statutory quantitative limits on media concentration. There also remains some ambiguity as to whether the Competition Commission regards online platforms as news organisations (and subject to diversity and plurality scrutiny). However, growing concern that such platforms may be used to spread disinformation and political interference is reflected in the promulgation (though not yet passage) of legislation (the Online Safety and Media Regulation Bill, the Electoral Reform Bill and a Hate Crime and Hate Speech Bill) designed to counter such threats. The development of media education programmes both within and (especially) beyond formal education settings can also be seen as addressing these threats.

Finally, these pressures notwithstanding, there is also a sense that Irish media policy (and some individual outlets) are beginning to move to address gender, community and minority representation issues. The BAI has been trialling more substantial financial aid for the community broadcasting sector since 2020 and since 2018 has promoted its Gender Action plan to its various stakeholders. The larger PSM, RTE, also published its own 4-year Diversity and Inclusion Strategy in 2018. As yet the practical impact of such strategies is hard to assess but there is clearly a nascent consciousness of the need to significantly address the absence of diversity amongst the voices and faces prominent in Irish media.

3.1. Fundamental Protection (26% - low risk)

The Fundamental Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy. They measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; the

independence and effectiveness of the national regulatory bodies that have competence to regulate the media sector, and the reach of traditional media and access to the Internet.



Overall, threats to fundamental protections for media pluralism are regarded as low risk. Only one subcategory - **Journalistic profession, standards and protection** - is scored as medium risk (36%), but even this is at the lower end of the spectrum. Irish journalists are free from arbitrary detention, and though occasionally subject to physical threats, the last murder of a journalist occurred 25 years ago. They have also somewhat shielded from the economic impact of COVID-19 by the State's Pandemic Unemployment Payment schemes. Against this, their working conditions are increasingly precarious, and some large scale media organisations have refused to engage in collective bargaining (i.e. recognising the National Union of Journalists). There are also continuing concerns about protections for the digital safety of journalists. Notwithstanding the transposition of Directive (EU) 2016/680 (prohibiting the illegal monitoring of journalists by law enforcement authorities) and the 2017 findings of the Murray Report that Ireland's data retention regime breaches the privacy and data protections of Articles 7 and 8 of the Charter of Fundamental Rights of the EU, the ongoing operation of the 2011 Data Retention Act allows law enforcement authorities to monitor the communications of ALL citizens (including journalists). There is also some ambiguity with regard to protection of journalistic sources. Although "journalistic privilege" is not an officially recognised legal concept, the Irish judiciary has generally been reluctant to force journalists to hand over material to law enforcement authorities, suggesting that, de facto, protection of sources is generally recognised. Finally, although the 2009 Defamation Act is currently under review, for now, there is little to discourage the filing of strategic lawsuits against public participation (SLAPPs), i.e. lawsuits designed to chill public discourse.

Freedom of expression (32% - low risk) is generally well protected in law^[1] and in practice (although there remain some instances where legal restrictions on such freedoms are ill-defined.) Furthermore, current defamation legislation does little to ensure that libel damages are proportionate to the damage caused by defamatory content. Within the digital realm, there is no obligation on the state to report instances of filtering/removal of online content, and although online platforms moderate the content they host, their reliance on internal guidelines as a basis for doing so (rather than statutory rules) can lead to an inconsistent application of standard across platforms.

The effective operation of the Freedom of information Act^[2] since 1997 also ensures that threats to **Freedom of Information** are considered a low risk (29%) even if the concept is not explicitly referred to in the Irish constitution. Against this, while a 2017 legal analysis for the European Commission described Ireland as having "advanced whistleblower protection with horizontal protection" (ICF Consulting Services Limited), some academic research (Kierans 2019) has suggested that the Protected Disclosure Act 2014^[3] often fails to offer "adequate protection to workers who make a disclosure of relevant information".

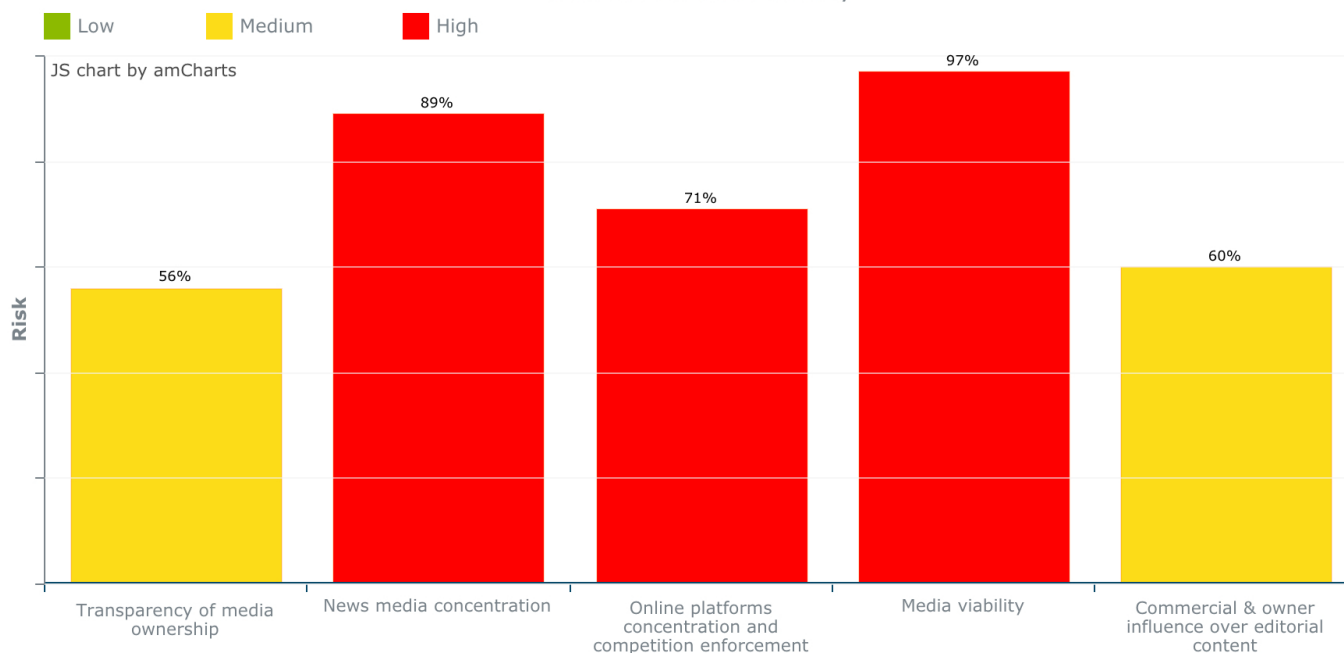
The universal reach of traditional media and access to the Internet is also considered to constitute a low risk (21%). Broadcast media universally available, while the European Union's Digital Agenda stats suggest that over 96% of Irish households had access to broadband connections as of 2020. Although Ireland was slow to notify the European Commission as to the scale of the local financial sanctions for breaches of Regulation (EU) 2015/21201 on open internet access, Internet service providers (ISPs) in Ireland appear to have respected their Net Neutrality obligations.

The lowest risk element within the Fundamental Protections relates to the **Independence and effectiveness of the media authority** (10%). Broadly speaking the legal framework^[4] within which the Broadcasting Authority of Ireland (BAI) operates narrows the scope for external interference (even though indirect means such as controlling the allowing of the BAI's annual budget remain in situ). Although appointments to the BAI remain within the gift of the Minister for Communications, the potential for narrow political influence has also been diluted by the adoption of an open application process judged by the members of the Joint Parliamentary Committee on Communications.

3.2. Market Plurality (75% - high risk)

The Market Plurality area focuses on the economic risks to media pluralism, deriving from lack of transparency and concentration of ownership, sustainability of the media industry, exposure of journalism to commercial interests. The first indicator examines the existence and effectiveness of provisions on transparency of media ownership. Lack of competition and external pluralism is assessed separately for the news media (production of the news) and for the online platforms (gateways to the news), considering separately horizontal and cross-media concentration; the concentration of online advertising market; and the role of competition enforcement. The indicator on media viability measures the trend of revenues and employment, in relation with GDP trends. The last indicator aims to assess risks to market plurality posed by business interests on production of editorial content, both from commercial and owners influence

Ireland: Market Plurality



The marked increase in the risk associated with Market Plurality since 2019 (65%) owes much to the deterioration in market conditions associated with COVID-19 restrictions. There has been a decline in revenues, employment and even numbers of outlets across all legacy (broadcast and print) sectors. Notably, some of the submissions from privately-owned, commercial media to the Irish Future of Media Commission have advocated for public support/subsidy for all media to reflect the rapid (and, it is increasingly assumed, permanent) decline in commercial revenues.

Given the launch of a BAI-funded, publicly accessible online database of media ownership (mediaownership.ie) in 2020, one might have expected the risk associated with **Transparency of media ownership** to have declined from the 38% reported in 2020. In practice, it increased to 56% (although remaining in the range of medium risk) reflecting the weight given by the Monitor to the absence of a media-specific legal framework regarding disclosure of corporate ownership in Ireland. Since November 2016, the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations have required all Irish companies to maintain accurate information regarding their beneficial owners. Section 74 of the Competition and Consumer Protection Act 2014^[5] requires the Broadcasting Authority of Ireland (the BAI) to prepare a report describing the ownership and control arrangements for media businesses at three year intervals. However the Anti-Money laundering legislation is not specific to media and the 2014 Act does not absolutely compel media owners to provide ownership information. Strictly speaking therefore the answer to the question posed with regard to media ownership is in the negative and the 2021 risk assessment reflects this. However, again, the operation of the Mediaownership.ie website means that in practice public access to information about beneficial ownership of media outlets has never been greater.

The risk associated with **News Media Concentration** is high (89%) driven by two key factors: firstly, although it is increasingly difficult to access data on revenue and audience concentration for all media markets, the evidence from radio and telecison points to a relatively high of concentration. (Newspapers have largely abandoned the Audit Bureau of Circulation and moved towards alternative readership measures collated by firms such as TGI, Comscore and even Google Analytics as a basis for calculating audiences. Such data is not yet available to us in a form that permits us to calculate the audience concentration of the top four newspaper groups in Ireland. In a similar vein, the Irish radio sector was to have established a Radio Advertising Bureau to collect data on commercial revenues but this has been

delayed by COVID-19 conditions.) Secondly, there is the ongoing absence of quantitatively defined limits in legislation and regulation on concentration of news media ownership.

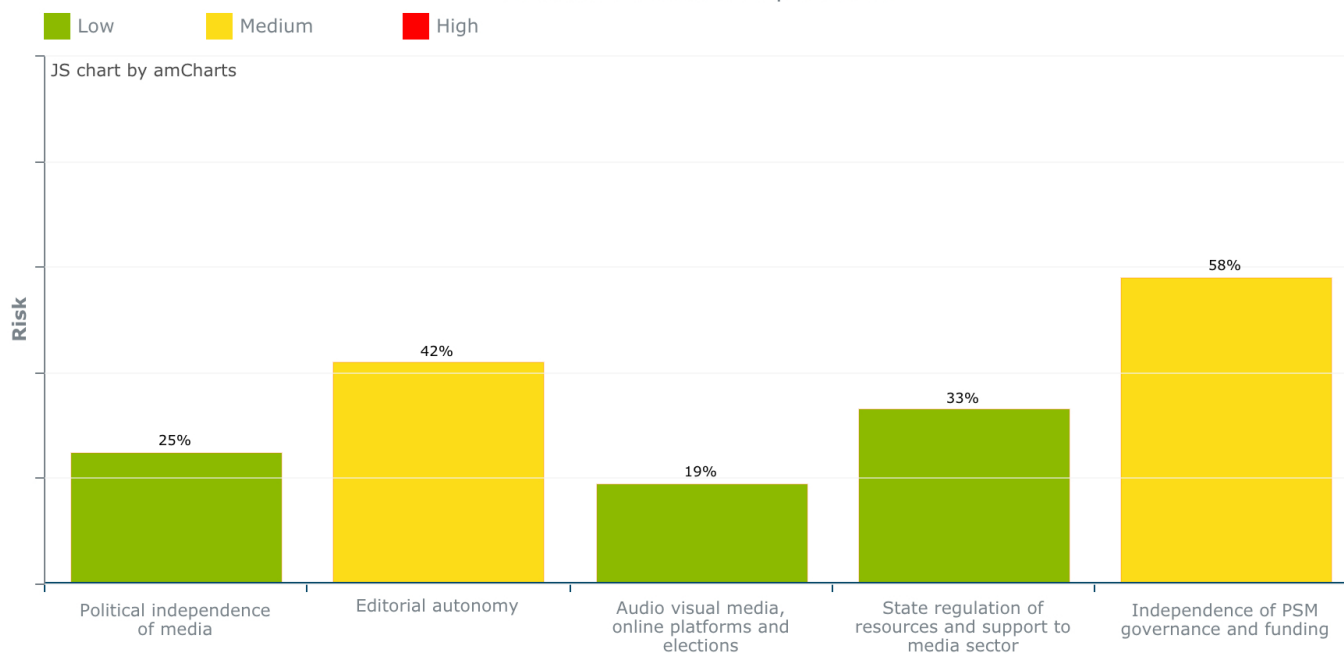
The outstanding risk within Market Plurality relates to **Media Viability** which rose to 97% (up from 75% in 2020). This reflects the fact that after some recovering some of the ground lost after the 2008 economic crash, first Brexit and then COVID-19 conditions have combined to depress revenues across ALL media sectors. That Ireland has – by some distance – undergone the longest imposition of lockdown conditions (shuttering all non-essential retail for much of 2020) severely depressed the local advertising market. In some cases the decline has been very substantial: indicative figures from Nielsen Adspend suggests that overall expenditure on television advertising in Ireland for the period from January to June 2020, was down 20% on the same period in 2019. A number of free press titles have either temporarily or permanently ceased activity in 2020 with concomitant impacts on both the level of journalistic employment in the sector and the precarity characterising working conditions for those able to retain their positions. The state has indirectly supported media outlets through an increase in COVID-19 public information-related-advertising expenditure but even the historically better-resourced media outlets (both public and private) face unprecedented challenges to their financial viability.

The unchanged (but still high at 60%) risk associated with **Commercial and owner influence over editorial content** reflects the ongoing absence of any definitive protections for the positions of editors and journalists in the event of changes in ownership. More commercial influence is discouraged by a variety of NUJ, Press Council and BAI codes^[6] stating that journalists should not allow content to be influenced by commercial interests and discouraging journalists from endorsing commercial goods/services. However, the only category of journalists expressly prohibited from doing so are broadcast news readers (under the Broadcasting Authority of Ireland's General Commercial Communications Code).

3.3. Political Independence (35% - medium risk)

The Political Independence indicators assess the existence and effectiveness of regulatory and self-regulatory safeguards against political bias and political influences over news production, distribution and access. More specifically, the area seeks to evaluate the influence of the State and, more generally, of political power over the functioning of the media market and the independence of public service media. Furthermore, the area is concerned with the existence and effectiveness of (self)regulation in ensuring editorial independence and availability of plural political information and viewpoints, in particular during electoral periods.

Ireland: Political Independence



Overall the risk in this category has scarcely changed since 2020, dropping by 1%.

The single highest risk factor within the Political area remains the **Independence of PSM governance and funding** at 58%. Although the power of the Minister for Communications to appoint the boards of the PSM has been diluted by the involvement of a parliamentary committee in the process, the Minister retains significant influence. Similarly, although the PSM generally use outside recruitment consultants to recruit their Director Generals, government consent remains necessary before RTE or TG4 can make an appointment. Finally, although the 2002 decision to index the broadcast licence fee to inflation promised a more objective basis for determining PSM funding, the granting of such increases has remained subject to governmental approval. (Notably, the licence fee has remained at the same level since 2008 despite repeated Broadcasting Authority of Ireland recommendations to increase it. The December 2018 budget did commit an additional €10m per annum in additional funding to the PSMs but this falls short of the sums recommended by the BAI.)

Political independence of media is considered low risk (25%). Although there are no legal prohibitions on combining a political role with media ownership, in practice this is not a feature of the contemporary Irish media landscape.

The medium risk (42%) associated with **Editorial Autonomy** may seem high given that there is little to suggest that Irish politicians and political parties exert direct influence over editorial content or the appointment/dismissal of editors-in-chief in Irish media. Against this, Irish regulations do not guarantee autonomy from political interference in making such appointments. RTE and The Irish Times have both published documents emphasizing the importance of remaining editorially independent from political influence but the operation of such self-regulation in other media organisations is less clear. Independent News and Media previously published a Code of Conduct referring to a “general policy” of not supporting political candidates or parties but this fell some way short of insisting on keeping politics and politicians at arm’s length. The research has not been able to access similar documents for Virgin Media or Communicorp, the two largest private broadcasting groups in Ireland.

Within the Political arena, the risks associated with **Audio visual media, online platforms and elections** are considered low (19%). Although political actors are not legally guaranteed access to the PSM or private

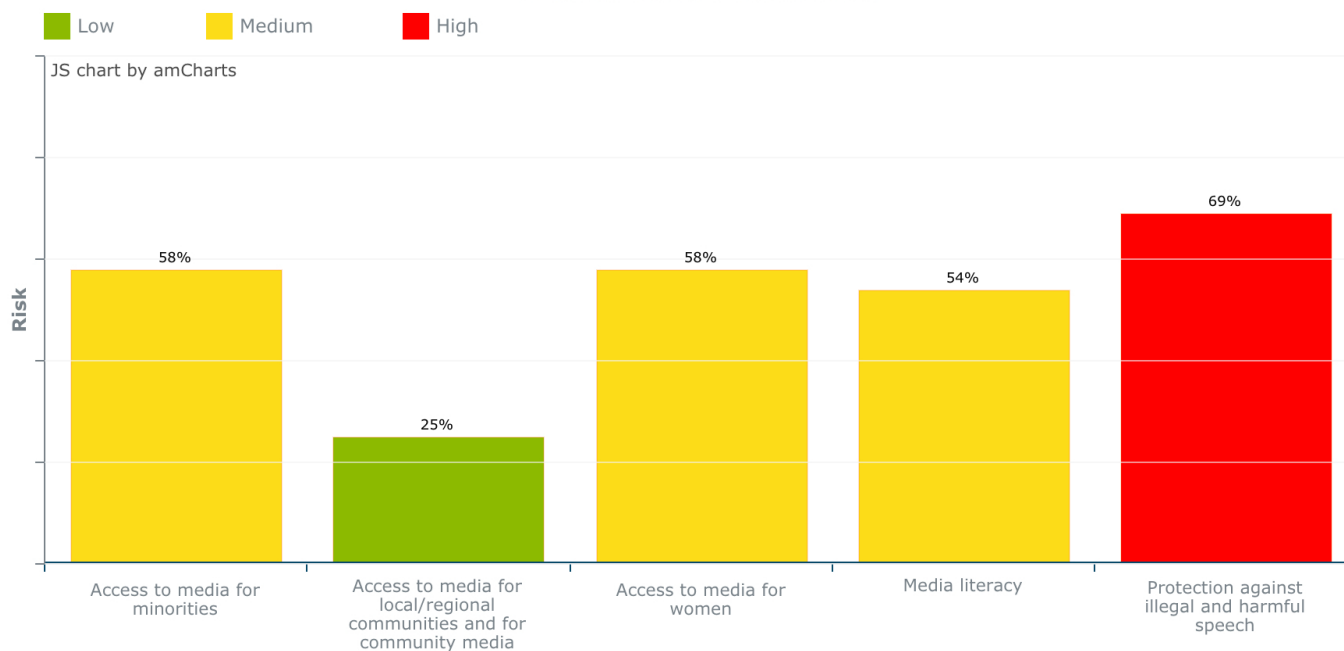
broadcasters during elections, regulatory stress on fairness, objectivity and impartiality in news and current affairs broadcasting works to ensure that such access is provided in practice. Although some parties have complained about the manner in which airtime has been allocated during elections, Irish public and private broadcasters clearly strive to do so on an equitable basis. (That it is currently not permitted to purchase broadcast advertising space for the purposes of advocating a political ideology ensures that deep pockets do not allow individual parties disproportionate access to the airwaves.) The issue is less clearcut with regard to online advertising. In January 2021 the General Scheme of an Act to establish an independent Electoral Commission (the "Electoral Reform Bill")^[2] was published. The legislation envisages that all online political advertising relating to Irish politics shall include links to a transparency notice. However, the legislation has yet to be passed and the existing Standards in Public Office rules do not require that political candidates and/or parties submit sufficient information to enable a proper grasp of how money is expended on online political advertising. Furthermore the Elect Check 2019 (Kirk et al., 2019) survey of the online campaigns in the lead-up to the 2019 European Election in Ireland found that not all online platforms fully met the standards of the European Commission-promoted Code of Practice on Disinformation which they signed up to in 2018.

State regulation of resources and support to media sector is considered low risk (33%), albeit very close to medium risk, largely because the precise mechanisms by which the state distributes advertising to individual media outlets remains opaque (although it is subject to official procurement guidelines). Distribution of state advertising has become more significant during the pandemic, however, as it "appears" that the state has upped its placement of (COVID-19-related) advertising. (Indeed it has been anecdotally suggested that in some cases this may have been crucial to the ongoing viability of some radio stations.) Beyond advertising the need to consider whether the state distributes subsidies to private media in a fair and transparent manner is obviated by the fact that such subsidies are almost entirely absent.

3.4. Social Inclusiveness (53% - medium risk)

The Social Inclusiveness area focuses on the access to media by specific groups in society: minorities, local and regional communities, women and people with disabilities. It also examines the country's media literacy environment, including the digital skills of the overall population. In addition, for the 2021 edition of the MPM, a new indicator has been added to the Social Inclusiveness area in order to assess new challenges raising from the uses of digital technologies: Protection against illegal and harmful speech. Due to this modification of the indicators, comparison with previous editions of the MPM should be handled with extreme care.

Ireland: Social Inclusiveness



The drop to a 58% (from 88% in 2020) medium risk assessment for **Access to media for minorities** reflects the combining of ethnic minorities and people with disabilities into a single category for this indicator. Irish law has no definition of what constitutes a minority complicates our assessment as the monitor is mainly concerned with legally recognised. We can state that ethnic minority faces and voices are relatively absent from Irish media (certainly in comparison with their presence in the population as a whole). However, in the PSM at least there have been some improvements. RTE's 2018 - 2022 strategy document recognises the increasing diversity of Irish society and commits to specific representation goals by 2030 with regard to gender, ethnicity, disability and sexual preference. Similarly published overt strategies are not evident in the private broadcasting sector however. With regard to disability, all broadcasters face mandatory quantitative obligations regarding subtitling/close captioning, Irish sign language and audio description (Section 43(1)(c) of the 2009 Broadcasting Act) ^[9]. However, although a majority of content on RTE and Virgin Media Television is subtitled, audio description obligations (less than 10% of content) are low by international standards. Overall then, though still developing, Access policy still falls short of being well-developed.

The low risk (25%) associated with **Access to media for local/regional communities and community media** stems from guarantees protecting their access broadcasting platforms ^[10] and their editorial independence ^[11]. Previously such outlets (mainly radio stations) have operated on a financially precarious basis but in 2020, the BAI commenced a two-year pilot scheme setting aside €750,000 from the Sound and Vision scheme for community radio representing a potentially much more stable basis for the operation of these stations.

The high risk (58%) relating to **Access to media for women** might be regarded as surprising given that the boards of both PSMs are gender balanced and the Director-General of the largest PSM is a woman. However, RTE does not have a specific gender strategy (but rather incorporates gender concerns into a broader diversity and inclusion document) while TG4 appears to have no strategy at all. The Head of News/Editor role is occupied by women in only 2 out of 8 of the largest television, radio, print and online Irish news media organisations and a sequence of reports have found that women account for barely a third of media professionals in Ireland while on radio female voices made up an average of only 28 percent of news and current affairs broadcasting time (Walsh et al., 2015, Culotty, 2016, and O'Brien, 2019).

A broader awareness of the issues associated with the roles played by women in Irish media and their representation is tacitly acknowledged by the existence of the BAI's 2018 Gender Action Plan^[12], which commits to supporting research into gender in the audio-visual sector, offering gender awareness training to BAI stakeholders and developing other initiatives to increase the representation of women in Irish media.

Despite the medium risk (54%) associated with **Media Literacy** substantial progress has been made in this area in the past half decade. One 2017 assessment of Media Literacy policies across Europe (Del Mar Grandio et al., 2017) identified Ireland as being at an advanced stage of media and information literacy policy implementation. Media literacy is a "core element" of the Irish education curriculum but the subject is not always formally assessed and delivery often relies on the initiative of individual teachers. Since 2018, Junior Cycle (typically 13-15 year old) students studying English must study a film chosen from a prescribed list and a variety of non-literary texts alongside the emphasis on more traditional texts. Though currently subject to review, the Senior Cycle (for 16-19 year-old students) is essentially unchanged since the year 2000 and media literacy remains optional at this level. However, there have been marked improvements in non-formal media literacy education driven by the BAI-funded Media Literacy Ireland (MLI) initiative (even if many of the projects supported are focused on internet safety rather than a broader media literacy orientation).

The risk associated with **Protection against illegal and harmful speech** in Ireland is considered high (69%). State efforts to tackle disinformation are focused on preventing disinformation during elections and referenda. An interdepartmental government group established to consider the risks to Ireland's electoral process in December 2017 found the risk of disinformation to be high in the context of online platforms. An Electoral (Reform) Bill^[13] to regulate online political advertising during election periods has been promulgated but pre-legislative scrutiny on it had not commenced on it by the time of writing (February 2021)^[14]. The BAI has also funded research ("Codecheck") into how social media platforms have complied with the 2018 EC Code of Practice on Disinformation. Although social media platforms had introduced various actions aimed at empowering consumers, the research was unable to find any news items across the four main social media platforms which had been "labelled as fact-checked with the corresponding verdict on its authenticity" (Institute of Future Journalism and Media, 2020) suggesting that disinformation is not always actively managed.

The main legislation designed to deal with hate crime in Ireland, the Prohibition of Incitement to Hatred Act N° 19 of 1989^[15], has been subject to significant criticism for its perceived inefficacy, illustrated by the limited number of prosecutions that have been taken under it. The Government's Legislative Programme for Autumn 2020^[16] referred to the preparation of Hate Crime and Hate Speech Bill to address the shortcomings of the 1989 Act, but at time of writing a draft of the new bill had not been made public^[17].

4. Pluralism in the online environment: assessment of the risks

Fundamental Digital Protection: Low risk (32%).

Though still low, the research identifies a slightly higher overall degree of risk in the digital realm relating to basic protections. Though freedom of expression online enjoys the same protections as offline speech, there have been instances whereby Irish law enforcement agencies have entered into agreements with ISPs to filter content, which lack an overt basis in Irish law. Furthermore, establishing the extent to which the state engages with ISPs to impose restrictions is hard to assess in the absence of any transparent recording and public reporting of such interactions. Through moderating user content on the basis of their own “Community Standards”, Social Media platforms de facto engage in extensive filtering of content and publish reports summarising such activity. They also operate mechanisms to allow users to contest the removal of content. For example, Facebook allows users who believe their posts have been removed in error to seek a “review request”. (In Q1 2020, 16% of such appeals were successful.)

There also remain significant risks for the digital safety of journalists and protections for their data owing to the ongoing operation of the Communications (Retention of Data) Act 2011^[18]. The act requires telecommunications companies to make available metadata on any electronic communications to Irish law enforcement officials. Such requests do not require prior independent approval. As the Murray Report noted in 2017, “the statutory framework ... establishes a form of mass surveillance of virtually the entire population of the State, involving the retention and storage of historic data, other than actual content, pertaining to every electronic communication, in any form, made by anyone and everyone at any time.” Murray also noted that while storage of this information did not specifically target the digital safety of journalists, its retention has a generalised “special importance when considering the principle of protection of journalistic sources.” In response to Murray, in 2017, the then Government published a General Scheme of a Communications (Retention of Data) Bill. The Bill appeared on the Government’s Legislative Programme for Autumn 2020 but was not identified as a piece of priority legislation for the current parliamentary session. In any case, as originally drafted, the Bill makes no reference to journalists at all and appears to largely ignore the recommendations of the Murray Report with regard to journalistic communication.

With regard to basic access to connectivity, however, matters appear healthier. Notwithstanding the long drawn out saga relating to the building of rural broadband infrastructure (now overseen by National Broadband Ireland), figures from the EU’s Digital Agenda research finds that 96% of the population has access to broadband (defined as 30mbps or higher connection speed). Furthermore, the EU’s 2016 Open Internet Access directive was fully transposed into Irish law in July 2019 (marked by the notification to the European Commission of local penalties relating to infringements of the Regulation).

Market Plurality Online: High Risk (74%)

The risk figure relating to Market Plurality online is more or less identical (734%) to that of offline (75%). Both are clearly considered high risk. As with offline media, there are no absolute legal requirements for the public disclosure of digital news media ownership so there is some lack of transparency in this area. (De facto, ownership information relating to the larger digital news media players is generally available via mediaownership.ie). Although the 2014 Competition and Consumer Protection Act refers to digital news media they are not subject to specified ownership thresholds which might limit market dominance. Even if they were, it would be difficult to accurately assess the extent of such dominance as much of the digital native news media consumed in Ireland is based outside the country (e.g. BuzzFeed, Huffington Post etc.) and do not publish separate revenue figures for Ireland. Overall then we have a limited understanding of the extent of concentration within the Irish digital news markets.

The risk for **Online platforms concentration and competition enforcement** (71%) has also increased (from 63% in 2020). That the 2014 Competition and Consumer Protection Act does not require that online

platforms such as Facebook be regarded as news media when considering merger and acquisition activity is increasingly problematic given that, according to the Reuters Digital News Report, 50% of online news in Ireland is accessed via aggregators, search engines and social media (rather than direct visits to news media websites). That the market is highly concentrated is evident: estimates from Core Advertising suggest that Facebook and Google alone account for 81% of all digital advertising in Ireland (and thus 40% of ALL advertising spend across Irish media).

As regards the viability of digital media, notwithstanding figures from IAB Ireland suggesting that total online adspend grew 8% to €726 million in 2020, it is not clear that digital native news media have shared in this bounty. If they have suffered losses, these have not been compensated for by state subsidy (since no scheme for such support exists). For their part legacy media have continued to seek to develop alternative revenue streams such as online subscription revenues. However, although precise figures are not available for digital revenues from the Irish Times or INM, RTÉ's most recent published accounts (for 2018) suggest that digital advertising and sponsorship accounted for just €7m out of a total commercial revenue of €150m. With regard to commercial and owner influence over editorial content in the digital sphere, the protections against such influence are broadly identical to those offline. The Press Council code emphasizes the incompatibility of activities in the field of advertising with the exercise of the journalistic profession and digital native news outlet membership of the Council has significantly increased in recent years: 17 outlets are now signed up. (Furthermore the most popular online news sources in Ireland (e.g. RTE.ie or Independent.ie) are offshoots of print and broadcast legacy media and thus their journalists would be directly subject to BAI and Press Council codes.) Similarly, the code of practice of the Advertising Standards Authority for Ireland, an industry-funded body regulating the Irish advertising industry emphasizes the need to distinguish advertorial from editorial content. It appears that that element of the code would also apply to online content and we have not been able to identify any substantial breaches in this regard.

Political Independence Online: Low Risk (31%)

The risk figure for Political Independence online is slightly lower (31%) than the offline equivalent (35%). There is no evidence that the Global Ultimate Owners of the leading digital native news media in Ireland are connected with established political groupings in Ireland which might see covert political influence shaping editorial content.

The risk relating to Audio visual media, online platforms and elections is considered high (67%) in the digital environment. Online political advertising remains largely unregulated although this should be addressed by the Electoral Reform Bill which was published in January 2021. The legislation envisages that all online political advertising relating to Irish politics should identify who paid for it and provide a description of criteria used for any micro-targeting. In particular, the Act requires online platform providers to appoint an individual to ensure that ad-buyers are representing individuals or parties based in Ireland (addressing a concern that individuals or organisations outside Ireland have sought to influence the outcome of recent Irish political campaigns).

Social Inclusiveness Online: High Risk (72%)

The risk figure for Social Inclusiveness is markedly higher online (72%) than offline (53%). Eurostat (2019) figures suggest that 36% of the population have poor digital skills while just 53% have even basic skills thus limiting the capacity of many to both access key informational resources online and to distinguish between reliable and unreliable information.

With regard to hate speech in Ireland, in 2019 a UN Committee expressed concern "about the increasing incidence of racist hate speech directed against Travellers, Roma, refugees, asylum seekers and migrants, particularly through the Internet and social networking platforms" (UN Committee on the Elimination of Racial Discrimination, 2019). The same Committee concluded that the Prohibition of Incitement to Hatred

Act 1989 was ineffective at dealing with “racist hate speech, particularly on-line racist hate speech”. The Government’s Legislative Programme for Autumn 2020 referred to the preparation of Hate Crime and Hate Speech Bill to address the shortcomings of the 1989 Act, but, again, at time of writing a draft of the new bill had not been made public^[19] .

5. Conclusions

The risk scores for **Fundamental Protection** (low risk at 26%) and **Political Independence** (medium risk at 35%) remain essentially unchanged since the 2020 iteration of the Monitor reflecting the fact that the related constitutional, statutory and regulatory protections for, inter alia, freedom of expression and access to information, and the independence of both media regulatory institutions and media outlets from political interference remain in place. (Equally the weak legal protections for editorial autonomy and the inherently political nature of the appointments process for Public Service Media remain issues.) The risk associated with **Social Inclusiveness** (assessed as medium at 53%) has increased slightly, due in part to the introduction of a new, separate category “Protection Against Illegal and Harmful Speech” which is scored as a high risk (69%). However, in a year where Covid’s impact on the domestic economy has made trading conditions increasingly marginal, it is unsurprising to see the risk associated with **Market Plurality** jump from medium (65%) to high (75%).

The 2020 version of this report argued that if, as it appeared, the traditional commercial media system based on a news-for-advertising quid pro quo was no longer sustainable then it was time to inaugurate a large-scale state-backed investigation of alternative media systems. And, in September 2020, the Department of Communications inaugurated the Future of Media Commission to consider the challenges facing all media – offline, online, traditional or digital – operating in Ireland. Its remit is to identify how “public service aims can be delivered and sustainably funded through broadcasting, print and online media in Ireland over the next decade, while ensuring that independent editorial oversight is maintained and Ireland’s creative and cultural sectors are supported”.

Notwithstanding the long history of state financial support for public service media, there was a reluctance throughout the 20th century to consider similar support for commercial media outlets and in any case the market appeared to be capable of sustaining a myriad of print and (from the 1980s on) broadcast outlets. However, by introducing state funding for public service content production on both public and commercial broadcasters, the introduction of the Sound and Vision scheme in 2002 explicitly acknowledged that the market could not always be relied upon to fully serve public service needs.

The medium to high risks associated with, for example, representation of/access for women and minority groups are not a result of more challenging market conditions but stem from long entrenched structural inequalities. The low risks associated with the Fundamental Protection and Political Independence realms are a result of regulatory structures which though requiring policing are relatively passive and thus relatively inexpensive to maintain. By contrast addressing risks associated with Social Inclusiveness may require more active intervention. To the extent this requires real investment, a media system largely reliant on commercial revenues may be financially ill-equipped to do so if current market conditions continue (or even worsen).

This suggests that the Irish media ecology may be reaching a stage where it is vital to contemplate approaches to its sustenance which does not rely on market funding. Experience from – the admittedly quite different political cultures of – Scandinavia suggest that such funding is not incompatible with the maintenance of editorial independence of the private media outlets which receive state funding.

Given this the main recommendation stemming from this year’s Irish report is that Irish policy-makers should:

- Recognise that the Irish media sector as a whole is at a critical juncture
- Recognise that its capacity to fulfil its basic democratic functions can no longer be guaranteed on the basis of mainly market-driven supports
- Explicitly recognise and acknowledge that the media play a constitutive role in the operation of a healthy democracy
- Take seriously recommendations from the Future of Media Commission aimed at ensuring the continuance (indeed the enhancement) of this role, and
- Move to implement appropriate interventionist measures without undue delay.

6. Notes

- [1] Freedom of expression is protected by Bunreacht na hÉireann (The Irish Constitution), <http://www.irishstatutebook.ie/eli/cons/en/html#part13>
- [2] Freedom of Information Act 2014, <http://www.irishstatutebook.ie/eli/2014/act/30/enacted/en/html>
- [3] Protected Disclosures Act 2014, <http://www.irishstatutebook.ie/eli/2014/act/14/enacted/en/html>
- [4] Broadcasting Act 2009, <http://www.irishstatutebook.ie/eli/2009/act/18/enacted/en/print>
- [5] Competition and Consumer Protection Act, NO. 29/2014, <http://www.irishstatutebook.ie/eli/2014/act/29/enacted/en/html>
- [6] NUJ Code of Conduct - National Union of Journalists, 1936, <https://www.nuj.org.uk/about-us/rules-and-guidance/code-of-conduct.html> Press Council of Ireland, Code of Practice, 2008, <http://www.presscouncil.ie/code-of-practice> BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs - Broadcasting Authority of Ireland - 2013, <https://www.bai.ie/en/codes-standards/#a1-block-3>
- [7] General Scheme of the Electoral Reform Bill 2020. <https://assets.gov.ie/118345/15ac22d0-1d73-438a-a1f8-4958bdacafa6.pdf>
- [8] <https://www.rte.ie/strategy/pdf/RTE-Strategy-2018-2022.pdf>
- [9] <http://www.irishstatutebook.ie/eli/2009/act/18/enacted/en/html>
- [10] For local and regional media, section 77(6) of the Broadcasting Act 2009 states that "An appropriate network provider shall re-transmit each national sound broadcasting service" provided the PSM and each BAI-licensed radio station. Section 65(1) of the same Act notes the need to "allow for the establishment of a diversity of services in an area catering for a wide range of tastes including those of minority interests" and, in that context, the Act requires the BAI to work with the Commission for Communications Regulation to prepare "an allocation plan for the frequency range dedicated to sound broadcasting".) For community media, Section 77 (8) of the Broadcasting Act 2009 contains must-carry obligations and must-offer obligations specifically relating to community and community of interest media. <http://www.irishstatutebook.ie/eli/2009/act/18/enacted/en/html>
- [11] section 42(3 (f) of the Broadcasting Act 2009 refers to "the desirability of maintaining the independence of editorial control over programme content" (for all form of broadcasting). However this falls short of constituting a guarantee and stands in contrast to the independence overtly granted to RTÉ by section 98 which states that RTÉ "shall be independent in the pursuance of its objects."
- [12] https://www.bai.ie/en/media/sites/2/dlm_uploads/2018/04/20180423_BAI_GenderActionPlan_vFinal_AR.pdf
- [13] <https://www.gov.ie/en/publication/34cf6-general-scheme-of-the-electoral-reform-bill-2020/>
- [14] The Joint Committee on Housing, Local Government and Heritage debate was continuing pre-legislative scrutiny of the general scheme of the electoral reform Bill 2020. (23 May 2020) Source: https://www.oireachtas.ie/en/debates/debate/joint_committee_on_housing_local_government_and_heritage/2021-03-23/2/
- [15] <http://www.irishstatutebook.ie/eli/1989/act/19/enacted/en/print.html?printonload=true>
- [16] <https://www.gov.ie/en/press-release/996c1-autumn-legislative-programme-published/>
- [17] In April 2021, the General Scheme of the Criminal Justice (Hate Crime) Bill 2021 was published by the Ministry of Justice. The General Scheme of the Bill has now been referred to the Joint Justice Committee for Pre-Legislative Scrutiny. Following this, it will be drafted by the Office of Parliamentary Counsel, in cooperation with my Department's Officials. It is anticipated that the Bill will be published by the end of the year, after which it will begin its passage through the Houses of the Oireachtas. The

General Scheme of the Criminal Justice (Hate Crime) Bill 2021 is available at: [http://www.justice.ie/en/JELR/General_Scheme_Criminal_Justice_\(Hate_Crime\)_Bill_2021.pdf/Files/General_Scheme_Criminal_Justice_\(Hate_Crime\)_Bill_2021.pdf](http://www.justice.ie/en/JELR/General_Scheme_Criminal_Justice_(Hate_Crime)_Bill_2021.pdf/Files/General_Scheme_Criminal_Justice_(Hate_Crime)_Bill_2021.pdf)

[18] Communications (Retention of Data) Act 2011,
<http://www.irishstatutebook.ie/pdf/2011/en.act.2011.0003.pdf>

[19] See Chapter 3.4 for the latest development on that matter

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Annexe I. Country Team

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<i>Roderick</i>	<i>Flynn</i>	<i>Associate Professor</i>	<i>School of Communications, Dublin City University</i>	X
<i>Eoin</i>	<i>O'dell</i>	<i>Associate Professor</i>	<i>Trinity College Dublin</i>	

Annexe II. Group of Experts

The Group of Experts is composed of specialists with a substantial knowledge and recognized experience in the field of media. The role of the Group of Experts was to review the answers of the country team to 16 variables out of the 200 composing the MPM2021. Consulting the point of view of recognized experts aimed at maximizing the objectivity of the replies given to variables whose evaluation could be considered as subjective, and therefore to ensure the accuracy of the final results of the MPM. However, it is important to highlight that the final country report does not necessarily reflect the individual views of the experts who participated. It only represents the views of the national country team that carried out the data collection and authored the report.

First name	Last name	Position	Institution
<i>Ciaran</i>	<i>Kissane</i>	<i>Media Regulator</i>	<i>Broadcasting Authority of Ireland</i>
<i>Seamus</i>	<i>Dooley</i>	<i>Trade Union Representative for Irish Journalists</i>	<i>National Union of Journalists</i>
<i>Lisa</i>	<i>NI Choisdealbha</i>	<i>Representative of the independent radio and television sector in Ireland</i>	<i>Independent Broadcasters of Ireland</i>

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