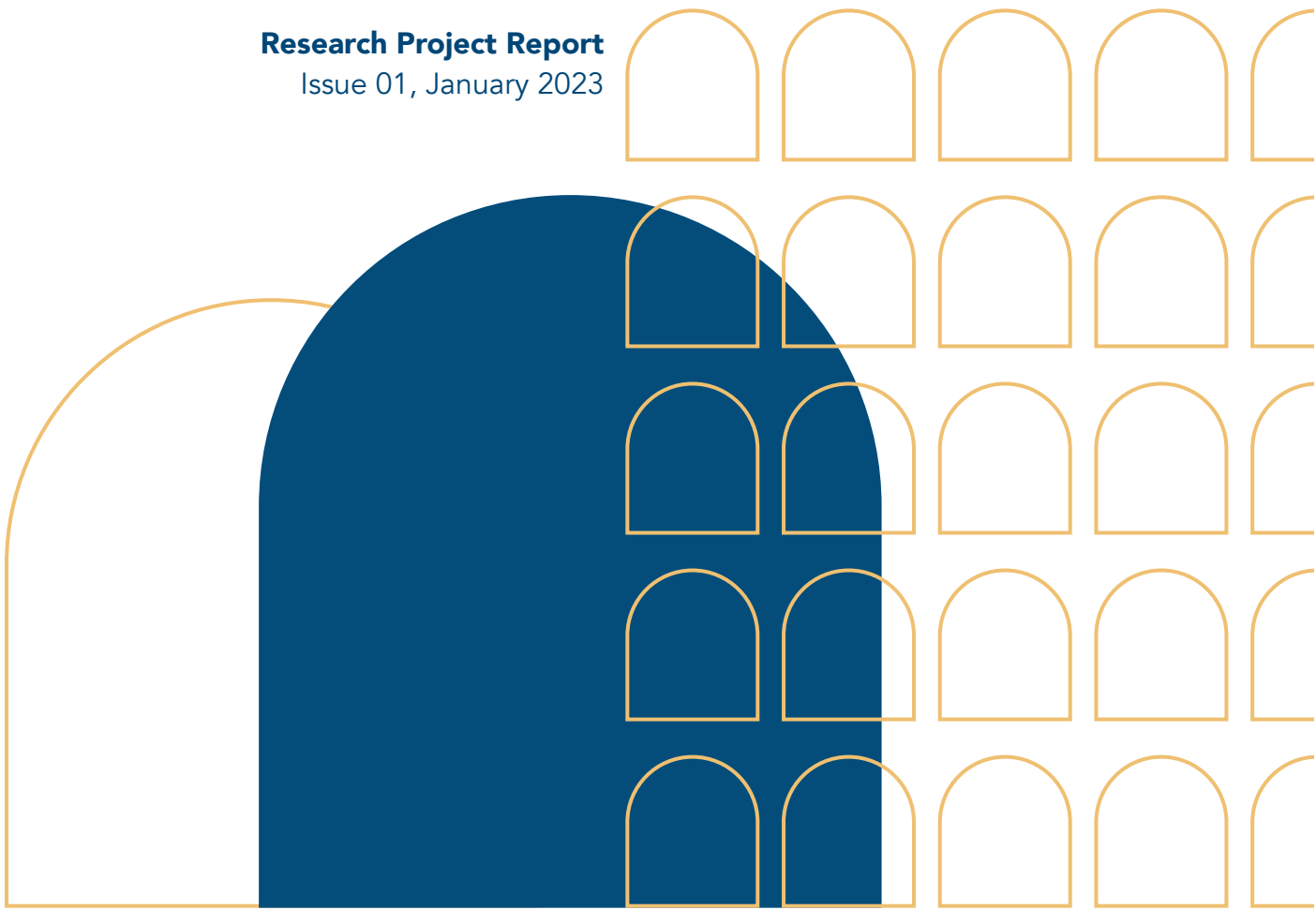


Feedback on the Proposal for a Regulation establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/ EU

Centre for Media Pluralism and Media Freedom

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Feedback on the Proposal for a Regulation establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU

by the Centre for Media Pluralism and media Freedom

Submitted on 23 January 2023

With this contribution, the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute offers a feedback to some aspects of the Proposal for a Regulation of the European Parliament and the Council establishing a common framework for media (European Media Freedom Act) and amending Directive 2010/13 EU (the Audiovisual Media Service Directive) (now on “EMFA Regulation proposal” or just “EMFA proposal”). With this feedback, the CMPF would like to contribute to the current debate on the act and address some issues that are relevant to guarantee media pluralism, as identified by our work in the [“Media Pluralism Monitor” \(MPM\)](#) and the [“Study on media plurality and diversity online”](#) and discussed in recent debates organised by CMPF.¹

The CMPF welcomes the European Commission’s initiative of further dedicating attention and resources to protecting and ameliorating the media sector in the EU, given the crucial democratic implication of guaranteeing access to free, plural and independent news. The dual nature of the media services (“special goods”, exchanged in a market but having direct links with human-rights related dimensions as well) is acknowledged in the EMFA proposal: one of the Commission’s main reasons motivating the need for a European Media Freedom Act is the inability of the media to fulfil their social role by providing quality service produced independently and in line with journalistic standards if they are increasingly facing interference in their editorial decision making, and if they are overwhelmed by the competition of digital actors that impact on their revenues and news distribution.²

The European Commission has acknowledged the risks for media pluralism in the Member States for a long time, at least since the publication of the 1992 Green Paper on “Pluralism and Media Concentration in the Internal Market: An Assessment of the Need for Community Action”. The CMPF supports the claim that a harmonised intervention in the internal media market is needed in order to avoid the fragmentation of domestic regulations now in place throughout the European countries, which not only endangers media companies themselves because of a lack of legal certainty, but it also weakens the guarantees for editorial independence, the work of journalists, and has serious consequences for freedom of expression and information in the Union.

Moreover, digitization has given a growing and - from a certain point on - predominant role to actors who are not “media” in the strict sense, i.e. they do not produce content and do not accept editorial re-

1 “The European Media Freedom Act. Reflections on the new draft proposal” (18 November 2022) <https://cmpf.eui.eu/event/the-european-media-freedom-act-reflections-on-the-new-draft-proposal/> and “Reframing media pluralism online. New findings and policy approaches” (13 December 2022) <https://cmpf.eui.eu/event/reframing-media-pluralism-online/>.

2 See Nenadic I. and Brogi E. in <https://euideas.eui.eu/2022/10/21/why-the-european-media-freedom-act-is-a-groundbreaking-step-for-europe/>.

sponsibility, but are information intermediaries, shaping the public's access to information and access of media to their public (therefore digital platforms, especially social networks, search engines and automatic aggregators). From a theoretical and scientific point of view this new context leads to the need to reconceptualize the very definition of media and information pluralism. From the point of view of politics and of the regulator it poses new challenges: the new actors of the media system are subjects that have a supranational, indeed global, dimension; and thus, escape national regulations modelled on traditional media. Furthermore, they (often) base their business model on the resource which for about a century has ensured the economic sustainability of private media, i.e., advertising. In 2020 in the European Union the sum of advertising revenues collected by all media sectors (television, radio, newspapers, cinema) was lower than the advertising revenues in digital, dominated by social networks and search engines, and with the first two operators – Google and Meta – which account for two thirds of the market³. The destruction of the traditional media business model has accelerated during the pandemic years, and the subsequent recovery has not returned the sector to pre-Covid levels, even before the consequences of the Russian invasion of Ukraine, such as the energy crisis, meant additional difficulties for the media sector. The supra-national and global scope of this challenge justifies an intervention at the supranational level, which is what the European Union is pursuing with a corpus of new regulations (either already in force or in the pipeline) that seek to form a European model for governing digital environment: the Digital Services Act, the Digital Markets Act, the Data Governance Act, and the proposals for further regulations: EU Cyber Resilience Act, Data Act, Artificial Intelligence Act.

The EMFA proposal must be seen in this context. In this regard also the choice of a regulation (instead of a directive) is consistent with other regulatory choices and allows for future easier interpretations of a corpus of laws that is becoming quite relevant, extended, and intertwined.

Within this framework, it must be acknowledged that intervening in the media sectors holds special characteristics and difficulties. It is a market with increasingly European or global dimensions, but at the same time strongly rooted in national identities, cultures and models; in many European countries the role of the public service media is strong and public interventions are envisaged. Nonetheless EMFA, while affirming that media pluralism is a constituent principle of the Union, entrusts national legislation for its definition and implementation, as suggested in Art. 21 EMFA proposal⁴.

In addition to the European acts mentioned above, the EMFA proposal should also be read together with other EU policies in the information sector such as the implementation of the revised AVMSD, and the proposal of a Directive on SLAPPs.

With all this in mind, and underlining the CMPF's support for a needed intervention as EMFA⁵, this contribution will touch upon the following issues addressed by the EMFA Proposal: the definition of media, content moderation, the concentration of the media market and its transparency, and the governance system envisaged by the Proposal, highlighting from a technical point of view some of the areas that might need additional refinement in the legislative text and asking for a more careful assessment of the checks and balances required in these areas, key for a free and plural flow of news content.

3 See Irion K., Carlini R., Klimkiewicz B., Idiz D., Stasi M. L., Broughton Micova S., Poort J., *Overview of distribution of advertising revenues and access to and the intensity of use of consumer data* in European Commission, Directorate-General for Communications Networks, Content and Technology, Parcu, P., Brogi, E., Verza, S., et al., *Study on media plurality and diversity online : annexes*, Publications Office of the European Union, 2022, (pp. 248-316).

4 Art. 21 (1) of the EMFA Proposal: "Member States shall provide, in their national legal systems, substantive and procedural rules which ensure an assessment of media market concentrations that could have a significant impact on media pluralism and editorial independence".

5 See the CMPF's contribution to the Call for Evidence on the European Media Freedom Act (EMFA), March 2022: <https://cadmus.eui.eu/handle/1814/74810>.

1. Definition of media

It is very welcomed that the EMFA Proposal provides a definition, in art. 2, of what a media service and a media service provider are. Looking at the definition of “media service provider” in art. 2 (2) in more detail:

“ ‘media service provider’ means a natural or legal person whose professional activity is to provide a media service and who has editorial responsibility for the choice of the content of the media service and determines the manner in which it is organised ”.

We welcome the provision of a definition of media that is broader than the one of audiovisual media foreseen by the revised AVMSD, and entails the inclusion of new actors, effectively defining media or media service providers in today’s context in which a lot of important public service journalism comes from beyond traditional formats.

On one side, the EMFA Proposal, when mentioning “natural persons”, could be interpreted as recognising the crucial role of individual journalists, also when working independently from a newsroom and/or as freelancers. On the other side, art. 2 (2) combined with Recital 8 suggests to include providers of video-sharing platforms or very large online platforms in the definition of media service providers when they have editorial responsibility for the choice of the content of the media service and determine the manner in which it is organised.

The CMPF suggests that the fact a media service provider offers media services as “professional activity” should not only be interpreted as if such services represent its/her/his main source of income but also as if the actor in question respects journalistic professional standards, which could be better defined in the EMFA proposal. More generally, the news producers or disseminators should be required to adhere to clearly identified professional standards⁶.

2. Content moderation

One of the most discussed parts of the Proposal is art. 17 on Content of media service providers on very large online platforms (VLOPs). The so-called “special treatment for media” in content moderation by very large online platforms has been discussed for a while, including in other contexts, and with different scope. The current proposal for art. 17 builds on a principle that commercial online platforms, largely without editorial responsibility, should not be allowed to remove content originating from the media service providers that do have editorial responsibility, are editorially independent from Member States and third countries, and adhere to widely recognised and accepted professional standards. The CMPF supports this principle and the idea to offer a protection against the unjustified removal by very large online platforms to media content produced according to professional standards. Moreover, as the current arrangement in which online platforms design and control the infrastructure which has become the primary meeting place between the media and their audiences has an impact on findability and visibility of the media content and thus also on sustainability of the media business.

While the core principle of this article can be supported on several dimensions, there are some challenges and obstacles to its intended implementation. More specifically, the key issue is related with a difficulty

⁶ On this point, see the CMPF’s contribution to the Call for Evidence on the European Media Freedom Act (EMFA), submitted on 25 March 2022 <https://cadmus.eui.eu/bitstream/handle/1814/74810/QM-07-22-735-EN-N.pdf?sequence=1&isAllowed=y>

in safeguarding that only editorially responsible and independent media service providers who abide by professional standards benefit from this “special treatment”. And that it is not being abused by bad actors, including hyper partisan and state-controlled media, propagandistic media and other purveyors of mis- and dis-information. In its current form, art. 17 requires very large online platforms to provide a functionality for media service providers to self-declare as such (within the meaning of Article 2(2)) and to declare to be editorially independent from Member States and third countries, as well as a subject to regulatory requirements for the exercise of editorial responsibility, and abiding by widely accepted professional standards, in order to benefit from a special treatment provided by this article. The key challenge in the current formulation of the article is the absence of an effective and media freedom compliant system for validating if the media service providers who self-declare as editorially responsible and independent are indeed operating in that way, being fully transparent about their ownership and respecting professional standards and editorial autonomy. The Proposal should be improved and strengthened along this line and the broad discussion carried around EMFA could be a moment to reconsider and strengthen the system of media and journalistic self-regulation in Europe

3. Market power

a. Transparency of media ownership⁷

Article 6 (1) introduces the disclosure of beneficial ownership in the media sector and requires media service providers providing news and current affairs content to give their users easy and direct access to information about the beneficial owners. By doing that, the proposal acknowledges the importance of media ownership transparency for media pluralism, editorial independence and, ultimately, democracy. Knowing who is behind a media outlet is a crucial part of the process of formation of public opinion, helping to gain the public’s trust, reducing levels of scepticism amongst audiences, and reinforcing the respect for high-quality news media and editorial independence. Therefore, Article 6 is an important step towards guaranteeing the right of citizens to choose their source of information freely and consciously and ensuring editorial autonomy. According to the Media Pluralism Monitor 2022 results, just 4 countries in the European Union were at low risk in the indicator of Transparency of Media Ownership.⁸

Although the Anti-Money Laundering Directive (EU Directive 2015/849, amended by EU Directive 2018/843) is the main instrument to ensure beneficial ownership transparency (Article 30 (4) (c)), this Directive focuses specifically on combating money laundering and terrorism.

The different objectives of transparency requirements provided by EU Directive 2015/849 and the EMFA proposal should be further clarified in respect to the two aspects of ownership transparency that are relevant in the media sector: transparency vis à vis the general public and transparency vis à vis public authorities. This is of special importance at the moment in view of the recent decision of the Court of Justice of the European Union (CJEU) which has declared invalid the provision of the Anti-money-laundering directive whereby Member States must ensure that information on the beneficial ownership is accessible in all cases to any member of the general public, on the grounds that the general public’s access to information on beneficial ownership constitutes a serious interference with the fundamental rights to respect for private life and to the protection of personal data (Joined Cases C-37/20 and C-601/20). Therefore, although ownership transparency in the EMFA proposal has a broader scope than combating money laundering and

7 Borges, D. and Carlini, R. (2022) Media ownership matters. The proposals of the European Media Freedom Act. EUideas blog post, October 21st, 2022. Available at <https://euideas.eui.eu/2022/10/21/media-ownership-matters-the-proposals-of-the-european-media-freedom-act/>

8 [Media Pluralism Monitor 2022, pp. 45-48.](#)

terrorism, since the rationale behind knowing who the effective owner of a media outlet is is connected to the formation of public opinion and comprehension of news content, the CJEU decision puts at risk the adoption of the much-needed disclosure of media ownership to the general public proposed by the EMFA.

Furthermore, the proposal does not provide for a systematic, consistent and structured way of collecting, storing and keeping media ownership transparency information accessible throughout the EU. Still, one of the main problems is related to the different transparency requirements across EU member states. Therefore, the possibility of having a centralised EU media ownership information registry is of crucial importance not only to democracy, as highlighted above, but also to the well-functioning of the EU internal market, since information is of utmost importance for new players who enter the market. On top of that, it must be underlined that transparency of media ownership towards public authorities is a precondition of the enforcement of anti-concentration rules, and for the proposed new “media pluralism test” (see below).

In addition to transparency obligations, art. 6 (2) asks media providers (providing news and current affairs content) to undertake measures aimed at guaranteeing editorial independence and to disclose any actual or potential conflict of interests.

While the above mentioned provisions are opposed by media sectors that have been historically less regulated (the press, in some countries), we think that the scope of art. 6 could be debated not as being too broad, but too narrow. The media providers that do not provide news and current affairs content, and the new actors in the media sector (see par. 1, definition of media) are not included in the new regime of transparency obligations. The rationale of those limitations could be better investigated. In particular, duties of transparency for the algorithmic recommendation systems of digital intermediaries could be taken into

consideration here. As affirmed by Ranaivoson et al., “media transparency’s scope needs to be adapted to include access of the public to information regarding ownership, financing, and algorithms. Because all media are important, these transparency requirements should extend beyond news media”⁹.

b. Media pluralism test

The tendency to ownership concentration is an historical and structural phenomenon in the media sector, due to technological features, and it has further increased in the digital environment. The risk of high concentration in the media sector is tackled by the national competition and regulatory frameworks with different rules, methods, and principles. The fragmentation of the national approaches to media ownership concentration poses growing concerns, regarding their effectiveness, consistency, and impact on the well-functioning of the internal media market and the internal market in itself¹⁰. In Section 5 of Chapter III the proposed EMFA addresses this issue, setting a principle and introducing rules and procedures to harmonise the national systems.

The principle is the following: in the evaluation of concentrations that impact the media sector, the general competition law and its enforcement are not enough, and a specific assessment is needed, to evaluate the impact of the operation on media pluralism, namely the media pluralism test. The media sector is a segment of the market, but its functioning also impacts fundamental rights and democracy. Therefore, the need for a specific assessment is at stake, that would complement (and not substitute) the enforcement

⁹ Policy Brief #64: [Media pluralism in the EU: A prospective look at the European Media Freedom Act](#)

¹⁰ For an exhaustive mapping, see the Annexes to the Study on Media Plurality and Diversity Online (European Commission, Directorate-General for Communications Networks, Content and Technology, Parcu, P., Brogi, E., Verza, S., et al., *Study on media plurality and diversity online* : annexes, Publications Office of the European Union, 2022): <https://op.europa.eu/en/publication-detail/-/publication/5d458a2f-34a5-11ed-8b77-01aa75ed71a1/language-en/format-PDF/source-search>

of competition law. Some MSs already have this double-assessment, some others have not; besides, the criteria of the assessment of the impact on pluralism, and the role/competences of the different authorities, are very different; it is not guaranteed that pluralism is effectively pursued, and that the national scrutiny is not used to limit freedom of establishment by media actors for other reasons (political control, hidden support to national media). Time was ripe for an EU common framework. Article 21 co. 1 asks all the Member states to provide rules and procedures to introduce a specific assessment of media market concentration that could have a significant impact on media pluralism and editorial independence. We welcome the introduction of the media pluralism test, and we underline that this provision should not be intended as violating MS's competencies on media pluralism, as it will be in their realm issuing the new rules and methods that better fit the national situations, following the general principles and criteria.

The national regulatory authority or body responsible for this assessment will have a crucial role; it is of utmost importance to guarantee and strengthen their independence. The cooperation in the new European Board of Media Services, and the mechanisms of review/intervention by this Board and the Commission, poses a new innovative framework and challenges to be addressed (see par. 5)

From a substantial perspective, art. 21 (co. 2) sets the criteria based on which the "media pluralism test" would be implemented. It is clarified that the impact of a concentration on media pluralism should be evaluated taking into account: 1) "its effects on the formation of public opinion and on the diversity of media players on the market, taking into account the online environment and the parties' interests, links or activities in other media and non-media businesses": this is in line with the CJEU judgement in Case C-719/18,¹¹ which stated that overcoming thresholds based exclusively on market shares is not sufficient to prove that there is a reduction of pluralism, and consistent with an approach that takes into consideration the digital environment of the media; 2) the existence of safeguards for editorial independence; 3) the economic conditions, meaning if, in absence of concentration, there would be economic sustainability of the entities involved in the merger.

These broad criteria have to be detailed with guidelines that might be issued by the Commission assisted by the Board, and are also open to some doubts of interpretation. Undoubtedly, they are fit to catch the evolving issues in the digital environment of the media, being flexible enough and referring to the actual impact of a concentration on public opinion. It is not completely clear if the three different groups of elements listed in art. 21 (2) should be considered alternatively or jointly, e.g if the conditions of point 3 (the case of a merger without which a media outlet would bankrupt and close) would prevail on points 2 and 1, or if points 1 and 2 would become conditions to allow a merger of the kind. The text leaves room to some innovative solutions, which could be specified in the guidelines and in the implementation of the media pluralism text, considering together the principles set by art. 21 and the requirements introduced by art. 6. In other words: when a merger can be justified by economic reason but still involves a risk for the reduction of the external pluralism, a strengthened set of guarantees in terms of editorial independence, content diversity and internal pluralism can be requested and enforced. The different scope and rationale of the antitrust scrutiny and the media pluralism evaluation might avoid, on one hand, to overcharge the competition authorities of tasks that are not in their remit; on the other hand, the right to a pluralistic and diverse information would not be sacrificed to economic logic.

To conclude, the media pluralism test is an important, and welcomed, step forward the assessment and prevention of threats to media pluralism deriving from the concentration of the market; it introduces innovative criteria,

11 JUDGMENT OF THE COURT (Fifth Chamber), 3 September 2020, Vivendi SA vs Autorità per le garanzie nelle Comunicazioni, <https://curia.europa.eu/juris/document/document.jsf?docid=230608&doclang=EN>.

which fit with the evolving technological and economic scenario, but also are more flexible in their interpretation; this flexibility calls for strengthened guarantees of independence of the NRAs and bodies that will implement the test. In our opinion, guarantees of transparency and inclusivity of the whole process should be strengthened, also opening the procedure to all the relevant stakeholder and to the civil society organizations active in the field of media pluralism and fundamental rights, and an actual evolution of the media pluralism assessment requires independence of the NRAs and the involvement. On a critical perspective, it can be noticed that the EMFA intervenes, with the provision of a media pluralism test, just in the case of mergers and acquisitions, i.e. when a market operation creates a bigger player, but does not provide any tools to prevent or to reduce a situation of high concentration in the market deriving from pre-existing factors, or caused by the growth of a company and the reduction/shutdown of the other ones.

4. Transparent and fair allocation of economic resources

In Section 6 of Chapter III, the EMFA addresses the issue of transparent and fair allocation of economic resources in the media sector, limiting the regulatory intervention to two specific threats menacing transparency and fairness in the media market: audience measurement (art. 23) and state advertising (art. 24). They are very relevant issues, but it could be argued that the scale of the problem of allocation of economic resources in the media sector has a bigger extent, and that it should be addressed with a wider range of tools, remaining in the scope of the proposed regulation (which is based on the well-functioning of the internal market). In particular, the acknowledgement of the media sector as “part of the cultural and creative industries ecosystem” calls for research on any measure that can help its supply in a competitive and fair market, and for the harmonization of their criteria and standards. In this regard, the intervention on audience measurement and state advertising is relevant and welcomed but cannot be seen as sufficient. The first aims to address the imbalance of power and information asymmetry in the advertising market; the second aims to prevent an abuse or distorted use of state advertising to influence editorial choices and media content. We will discuss the two specific provisions, and then we will add some proposals to add further tools to improve the fairness in the allocation of economic resources.

a. Audience measurement

The reason why this issue is addressed in the EMFA is well clarified in recital 45: audience measurement “has a direct impact on the allocation and the prices of advertising, which represents a key revenue source for the media sector”. The issue addressed is the opacity of the measurement, and the growing role in the sector of “certain new players” that provide their own measurement service without making available information of the methodology. The new players are the digital intermediaries that dominate the online advertising market and therefore gather (almost) all the growing resources in the sector, disrupting the traditional business model of the media providers (see Study on Media Plurality and Diversity Online, 2022, Chapter B.2, pp. 248-317). As highlighted in this Study, the dominant position of the digital intermediaries in the online advertising market is to be related not only to the information asymmetries regarding audience reach, but also - and mostly - to their dominant role in the data market and their superior capacity to personalize advertising exploiting personal data. Consequently, 1) the right to access to information on the methodology of audience measurement should be carefully designed to take into consideration the practical difficulties of small media and also of researchers in negotiating with very large platforms, and the need of an effective role of public authorities in promoting independent and transparent audits; 2) transparency obligations should be extended to the results of the audience measurement, not limited to methodology; 3) a broader impact can be achieved with the data sharing obligations envisaged for very large platforms by

the DMA, whose implementation “should be accompanied by EU and MS level programmes and policy, aimed at supporting media in generating insight and creating value from data, in compliance with the EU data protection framework” (see the Policy proposal in Study on Media Plurality and Diversity online, 2022, p. 393).

b. State advertising

The rationale for the provision on state advertising is explained in recital 48 as follows: “State advertising is an important source of revenue for many media service providers, contributing to their economic sustainability. Access to it must be granted in a non-discriminatory way to any media service provider from any Member State which can adequately reach some or all of the relevant members of the public, in order to ensure equal opportunities in the internal market”. As highlighted by the 2022 results of the Media Pluralism Monitor, the risk of political influence and threats to editorial autonomy related to state advertising is high on the average of EU member states, and only 6 countries score low risk in this area. The scope of the definition of state advertising in art. 25 is broad enough, but some weaknesses in the provision must be highlighted, namely: 1) The threshold of 1 million inhabitants seems high and the reasoning behind this threshold is not clear. 2) The text mentions “the definition of state advertising should not include emergency messages by public authorities which are necessary, for example, in cases of natural or sanitary disasters, accidents or other sudden incidents that can cause harm to individuals.” This might open a loophole in situations like the COVID-19 pandemic, the war in Ukraine (for the last 2,5 years EU member states find themselves constantly in a time of emergency messages), when related governmental messages, sometimes on a massive scale can be used to subsidize, control, capture media outlets. 3) There is no mention of (state) resources other than advertising, which provides a restrictive view on financing transparency.

c. What is missing?

The same rationale on which the EMFA bases the provisions on state advertising (the need to grant access to public resources in a non-discriminatory way in order to ensure equal opportunities in the internal market) should lead to a similar harmonization of principles governing public subsidies to the media sector. These subsidies are increasingly advocated by the media providers and had a relevant temporary increase during the COVID 19 crisis. Direct and indirect public subsidies are to be preferred to state advertising as a means to support media pluralism; at the same time, they come with the same risks of political capture (even though, on average, their risk is lower, according to the MPM results). To prevent and to reduce those risks, the inclusion of public subsidies in the scope of the EMFA regulation would be welcomed; the same criteria of transparency, proportionality, monitoring and disclosure provided for State advertising by art. 24 should apply to public subsidies.

In addition, the proposed EMFA could be a basis for stronger public support at EU level. The recent inclusion of the news media among the potential beneficiaries of the financial support of the EU to the creative and cultural sector is still limited in amount, and there is room for an increase of the current budget; even though this is in the realm of other EU policies, the proposed EMFA could set a principle and call for a strengthened role of the EU financial support, to promote media pluralism, support the sector of news media in its challenging transition in the digital environment, and reduce the risk of political capture in shifting the procedure and the decision at supranational level. A more ambitious proposal for the future could be to

use part of the revenues of a minimum tax on digital services to finance news media sustainability¹². The threats to the economic sustainability of news media content providers and the dominant role of the digital platforms also led to an increased role of platforms themselves as funders of the news media producers/services, in some cases with voluntary programs to finance journalism, in other cases in the context of the negotiations with the publishers to remunerate content protected by copyright. The transparency requirements requested by the EMFA for media ownership and for state advertising should be extended to the economic relationships between publishers and platforms, in order to pursue the goal of a level playing field in the market and to avoid new barriers to entry, that could emerge if negotiations are limited to the biggest and strongest news media actors.

5. Governance

Articles 8 to 12 of the EMFA Proposal define the governance system of the European Board for Media Services, which will replace and enhance the remit of the European Regulators Group for Audiovisual Media Services (ERGA).

The CMPF welcomes the creation of a new body with a broader set of competences than ERGA as well as a strengthened cooperative framework and peer review system among national authorities, that will enable a positive and synergic process. At the same time, this framework should be supported by national authorities independent from political and commercial interests¹³ and this aspect could be strengthened in the EMFA Proposal. To be noted the fact that the Board can only issue non-binding opinions may pose issues from the side of effectiveness.

The CMPF supports the recognition of the independence of the Board set off at a general level in art. 9. In the process of establishment and implementation of the activities of the Board, further details on how to guarantee independence could be provided.

A closer examination of the sections of the EMFA Proposal envisioning the agreement of the Commission for undertaking certain decisions (e.g. art 10 (6, 8) and art 12 (e, f, g)) could be also conceived, in order to understand if such agreement is necessary in all the cases provided by the Proposal.

On a final note, the CMPF acknowledges the reasons provided by a representative of the Commission (efficiency and cost-effectiveness) on the need for an EC-based Secretariat¹⁴, while expressing again its preference for an agency-based Secretariat.¹⁵

Final remarks

As a final remark, the CMPF stresses its support to an harmonised intervention in the media sector, which is needed both from the side of the media market and that of media pluralism, freedom of expression and information. This contribution has a technical nature, which is aimed at highlighting potential areas of improvement while recognising the EMFA Proposal as a significant piece of regulation, that should be quickly adopted and implemented in order to face the contemporary challenges to the media environment.

12 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 and Turkey in the year 2021. Centre for Media Pluralism and Media Freedom. Technical Report, Centre for Media Pluralism and Media Freedom (CMPF), Media Pluralism Monitor (MPM), 2022. Available at <https://cadmus.eui.eu/handle/1814/74712>

13 As already highlighted both by Nenadic I. and Brogi E. as well as in the CMPF's contribution to the Call for Evidence on the European Media Freedom Act (EMFA). See <https://euideas.eui.eu/2022/10/21/why-the-european-media-freedom-act-is-a-groundbreaking-step-for-europe/> and <https://cadmus.eui.eu/handle/1814/74810>

14 The European Media Freedom Act. Reflections on the new draft proposal (18 November 2022), <https://cmpf.eui.eu/event/the-european-media-freedom-act-reflections-on-the-new-draft-proposal/>

15 On this point, see the CMPF's contribution to the Call for Evidence on the European Media Freedom Act (EMFA), submitted on 25 March 2022 <https://cadmus.eui.eu/bitstream/handle/1814/74810/QM-07-22-735-EN-N.pdf?sequence=1&isAllowed=y>

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