

**PUBLIC CONSULTATION ON
THE INDEPENDENT REPORT FROM
THE HIGH LEVEL GROUP ON MEDIA FREEDOM AND PLURALISM¹**

Purpose

The purpose of [this consultation](#) is to collect views and opinions on the [report from the High Level Group on Media Freedom and Pluralism](#) and on any aspects of media freedom and pluralism in Europe that you consider important. Please note that the report does not represent nor prejudice the Commission's position. This report reflects the views of independent experts. The Commission's objective with this consultation is to gather broad feedback on all recommendations presented by the High Level Group in order to allow for an open debate on media freedom and pluralism within the European Union.

The decision on any possible follow-up actions will be based on an in-depth analysis of the competences of the European Union. In this context, it must be recalled that, following its Article 51 (2), the Charter of Fundamental Rights does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties.

While the present consultation opens a public debate on media pluralism and freedom of expression without explicitly foreseeing at this stage the nature, scope or timing of follow-up actions, the Commission is also exploring further initiatives regarding the independence of National Regulatory Authorities in the audiovisual sector within the meaning of Article 30 of the Audiovisual Media Services Directive as well as their cooperation across Europe. This relates to the conditions of application by national authorities of existing EU internal market rules regarding the audiovisual sector. This is the immediate focal point for any possible EU legislative action in relation to public authorities competent for media matters. In this area a [separate public consultation](#) will seek feedback from a broad range of stakeholders.

Duration: 22/03/2013 to 14/06/2013 (12 weeks)

Targeted respondents: Citizens, organisations, public authorities

Responding to the consultation

You can either fill out the online questionnaire or send it by post to:

Public consultation on HLG
European Commission
Directorate- General for Communications Networks, Content and Technology
Unit G1
Office BU25 05/181
B- 1049 -Brussels

¹ <http://ec.europa.eu/digital-agenda/en/public-consultation-independent-report-hlg-media-freedom-and-pluralism>

Personal data

Contributions will be published on the website of Directorate General for Communications Networks, Content and Technology. The responses received will be available on the Commission website unless confidentiality is specifically requested.

To this end we would kindly ask you to clearly indicate in the box in the consultation whether you would not like your response to be publicly available.

[Rules on personal data protection](#)

Contact

CNECT-G1-HLG@ec.europa.eu

Transparency

For the sake of transparency, we invite organisations to provide the public with relevant information about themselves by registering in the Transparency Register and subscribe to its Code of Conduct. If an organisation is not registered, its submission will be published separately from those of the registered organisations.

Background

Media freedom and pluralism are fundamental pillars of democracy in Europe, enshrined in the European Charter of Fundamental Rights. The possibility to freely express and share opinions and the availability of a wide range of views are not only an important societal value but have a positive impact as an economic driver.

Progressing convergence between the offline and the online worlds in the media sector opens new ways to share views and enables direct citizen participation in political debates, but entails new challenges for media including the maintenance of media pluralism. The impact of the digital revolution on the media sector was addressed in 2012 by the [EU Media Futures Forum](#).

According to Article 51 (1) of the Charter of Fundamental Rights, its provisions are addressed to the Member States only when they are implementing Union law. Within its competences, the Commission has sought to ensure respect for media freedom and pluralism. In recent cases involving Member States, the Commission has relied in particular on EU Treaty rules on freedom of establishment and on the AVMSD.

However, the Commission is constantly called upon to do more to defend these fundamental rights making use of its competences. On 25 September 2008 the European Parliament

reminded the Commission that on several occasions it has been asked to draw up a directive that would aim to ensure (among other things) pluralism². On 10 March 2011, the European Parliament called on the Commission to propose a legislative initiative on media freedom, pluralism and independent governance³. Another example is the European Initiative for Media Pluralism which calls on the European institutions to safeguard the right to independent and pluralistic information⁴.

Hence, the need for a wider and open debate about the EU's proper role in a rapidly evolving media landscape – a debate which is conducted in full recognition of the limits which are set to EU competences by the Treaty.

A recent [policy report by the Centre for Media Pluralism and Media Freedom](#) also addresses the question of the interpretation of the European Union competences as regards Media Pluralism and Media Freedom.

The independent High Level Group on Media Freedom and Pluralism presented its report in January 2013.

This report reflects solely the views of its members – the former President of Latvia Prof. Vaira Vīķe-Freiberga, Group Chair, Prof. Herta Däubler-Gmelin, Prof. Luís Miguel Poiães Pessoa Maduro and Ben Hammersley.

The group was invited to analyse and provide independent recommendations on issues such as:

- the limitations to media freedom arising from political interference (whether from state intervention or from national legislation)
- the limitations to media independence related to private or commercial interests
- the concentration of media ownership and its consequences for media freedom/pluralism and on the independence of journalists
- existing or potential legal threats to the protection of journalists' rights or to their profession in Member States
- the role and independence of regulatory authorities
- existing or potential measures in favour of quality journalism, ethics and media accountability, within the respective competences of regional, national, EU and international authorities.

For additional information please see: [Terms of reference of the High Level Group](#).

² <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0459&language=EN>

³ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0094+0+DOC+XML+V0//EN>

⁴ (Commission registration number: ECI(2012)000013)

<http://ec.europa.eu/citizens-initiative/public/initiatives/ongoing/details/2012/000013>

The European Commission fully recognises the importance of already existing mechanisms, in particular the crucial role of the Council of Europe and the European Court of Human Rights, in safeguarding media freedom and pluralism. The Commission is also aware of the importance of self-regulatory mechanisms in the field of media pluralism and quality of journalism.

Responses to the present consultation will contribute to assessing whether additional actions should be undertaken by the European Union within the limits of its competences. Therefore, the European Commission would like to ensure the broadest possible consultation of different stakeholders.

The independent report includes a large array of recommendations, each addressed to a specific set of actors, including the European Union, Member States and other stakeholders in the media sector. The European Commission has conducted a preliminary analysis of the recommendation which suggests that in many areas there are already on-going initiatives at EU level. Examples include current legislative work regarding data protection, efforts towards the establishment of a Media Pluralism Monitor tool, [a recent public consultation on net neutrality](#) and negotiations with Candidate Countries to name a few.

Questionnaire

1. General questions

Please note that the report reflects solely the views of the members of the High Level Group. The report does not represent or prejudge the Commission's position.

A. Do you agree that your contribution will be published?

- Yes
- No

B. In what quality are you replying?

- Citizen
- Public authority → Please specify:
- Regulator
- Industry → Please specify:
- Trade association → Please specify:
- Non-governmental organisation → Please specify:
- Researcher
- Other → Please specify:

C. Please indicate your gender:

- Male
- Female

D. How old are you?

- < 18 years
- 18-29
- 30-39
- 40-49
- 50-59
- 60-69
- >= 70 years

E. What is your nationality? (multiple choices possible)

- EU-27
- Other

F. What is your country of residence/establishment? (one answer only)

- EU-27
- Other

G. What is the highest formal level of education that you have attained?

- Secondary school
- High school
- Undergraduate degree
- Postgraduate degree
- Other:

H. How would you describe your current professional status?

- In education (including apprenticeships)
- Self-employed
- Employee
- Middle management
- Executive management
- Other:

I. Do you have, or have you previously had, by way of your employment a direct relationship with the media industry?

- Yes → Please specify:
- No

2. Questions regarding recommendations

Below please find recommendations of the independent High Level Group on Media Freedom and Pluralism which presented its report in January 2013. The [report](#) and the recommendations reflect solely the views of its members – the former President of Latvia Prof. Vaira Vīķe-Freiberga, Group Chair, Prof. Herta Däubler-Gmelin, Prof. Luís Miguel Poiares Pessoa Maduro and Ben Hammersley.

Please note that the report does not represent nor prejudge the Commission's position.

Recommendation 1: The EU should be considered competent to act to protect media freedom and pluralism at State level in order to guarantee the substance of the rights granted by the Treaties to EU citizens, in particular the rights of free movement and to representative democracy. The link between media freedom and pluralism and EU democracy, in particular, justifies a more extensive competence of the EU with respect to these fundamental rights than to others enshrined in the Charter of Fundamental Rights.

Do you have any observations?

Recommendation 2: To reinforce European values of freedom and pluralism, the EU should designate, in the work programme and funding of the European fundamental rights agency, a monitoring role of national-level freedom and pluralism of the media. The agency would then issue regular reports about any risks to the freedom and pluralism of the media in any part of the EU. The European Parliament could then discuss the contents of these reports and adopt resolutions or make suggestions for measures to be taken.

Do you have any observations?

Recommendation 3: As an alternative to the mechanism suggested in the previous recommendation, the EU could establish an independent monitoring centre, ideally as part of academia, which would be partially funded by the EU but would be fully independent in its activities.

Do you have any observations?

Recommendation 4: All EU countries should have independent media councils with a politically and culturally balanced and socially diverse membership. Nominations to them should be transparent, with built-in checks and balances. Such bodies would have competences to investigate complaints, much like a media ombudsman, but would also check that media organisations have published a code of conduct and have revealed ownership details, declarations of conflicts of interest, etc. Media councils should have real enforcement powers, such as the imposition of fines, orders for printed or broadcast apologies, or removal of journalistic status. The national media councils should follow a set of European-wide standards and be monitored by the Commission to ensure that they comply with European values.

Do you have any observations?

Recommendation 5: For improving the functioning of the Single Market, further harmonisation of EU legislation would be of great benefit. Currently, the existence of divergences between national rules can lead to distortions in the framework of cross-border media activities, especially in the online world. It would be particularly important to adopt minimum harmonisation rules covering cross-border media activities on areas such as libel laws or data protection.

Do you have any observations?

Recommendation 6: A network of national audio-visual regulatory authorities should be created, on the model of the one created by the electronic communication framework. It would help in sharing common good practices and set quality standards. All regulators should be independent, with appointments being made in a transparent manner, with all appropriate checks and balances.

In this area a [separate public consultation](#) will seek feedback from a broad range of stakeholders.

Recommendation 7: National competition authorities need to make (or the Commission) pro-active regular assessments of individual countries' media environments and markets, highlighting potential threats to pluralism. At the EU level, there should be pro-active market assessment under competition policy in the form of a sectoral inquiry.

Do you have any observations?

Recommendation 8: European and national competition authorities should take into account the specific value of media pluralism in the enforcement of competition rules. They should also take into account the increasing merging of different channels of communication and media access in the definition of the relevant markets. In addition, the High Level Group calls upon the European and national competition authorities to monitor with particular attention, under competition policy, new developments in the online access to information. The dominant position held by some network access providers or internet information providers should not be allowed to restrict media freedom and pluralism. An open and non-discriminatory access to information by all citizens must be protected in the online sphere, if necessary by making use of competition law and/or enforcing a principle of network and net neutrality.

Do you have any observations?

Recommendation 9: Media freedom and pluralism should play a prominent role in the assessment of accession countries. A free and pluralist media environment must be a pre-condition for EU membership.

Do you have any observations?

Recommendation 10: The EU should raise the issue of journalistic freedom in all international fora where human rights and democracy are discussed, including as part of trade/partnership agreements and in the context of provision of aid.

Do you have any observations?

Recommendation 11: Any new regulatory frameworks must be brought into line with the new reality of a fluid media environment, covering all types of journalistic activities, regardless of the transmission medium.

Do you have any observations?

Recommendation 12: In order to give complete transparency as to how individualised a service is, services that provide heavily personalised search results or newsfeeds should provide the possibility for the user to turn off such personalisation, temporarily for an individual query, or permanently, until further notice.

Do you have any observations?

Recommendation 13: Channels or mechanisms through which media are delivered to the end user should be entirely neutral in their handling of this content. In the case of digital networks, Net Neutrality and the end-to-end principle should be enshrined within EU law.

This has been the object of a recent consultation. Please find a link to the [questionnaire](#)

Recommendation 14: There should be streamlining and coordination of support and funding for quality journalism, as already exists in several EU countries. Europe-wide awards should be made available for talented journalists and those having made significant breakthroughs. An additional study should be commissioned on possible new forms of funding for quality and investigative journalism, including making use of new technologies such as crowdfunding.

Do you have any observations?

Recommendation 15: Any public funding should only be available for media organisations which publish a code of conduct easily accessible to the public (including on their site).

Do you have any observations?

Recommendation 16: Any public funding to media organisations should be given on the basis of non-discriminatory, objective and transparent criteria which are made known in advance to all media.

Do you have any observations?

Recommendation 17: In order to build up cadres of professional journalists competent to operate in a rapidly changing media landscape, or to offer them the possibility to do investigative journalism, journalistic fellowships should be offered to both entry-level and mid-career candidates who could take leave from their media organisations. Universities and research centres should set up positions for journalists in residence under such fellowships to be funded by the EU. The selection of the journalists would be done by the academic and scientific institutions themselves. The fellowships would be particularly valuable for investigative journalism, or for training journalists to mediate between complex subjects such as science, technology, finance or medicine and the wider public.

Do you have any observations?

Recommendation 18: Journalist and media organisations should adapt their codes of conduct and journalistic standards to the challenges posed by a rapidly changing media environment. In particular, they should clearly address questions of source verification and fact checking, as well as transparently regulating their relationship with external sources of news.

Do you have any observations?

Recommendation 19: Media literacy should be taught in schools starting at high-school level. The role media plays in a functioning democracy should be critically assessed as part of national curricula, integrated either with civics or social studies.

Do you have any observations?

Recommendation 20: To evaluate the manner in which media consumption patterns are changing, as well as their social impact, comprehensive longitudinal studies are needed at the EU level. More broadly, the EU should provide sustainable funding for academic research and studies on the changing media environment, in order to provide a solid academic basis for policy initiatives in this field.

Do you have any observations?

Recommendation 21: All EU countries should have enshrined in their legislation the principle of protection of journalistic sources, restrictions to this principle only being acceptable on the basis of a court order, compatible with the constitution of that country.

Do you have any observations?

Recommendation 22: Access to public sources and events should depend on objective, non-discriminatory and transparent criteria. This ought to be notably the case with regard to press conferences, with electronic means used to broaden out these events to a wider audience where practically possible.

Do you have any observations?

Recommendation 23: Member States should ensure that appropriate instruments are put in place for identifying those responsible for harming others, even in the online space. Any internet user- data collection necessary for this purpose should be kept confidential and made available only by a court order.

Do you have any observations?

Recommendation 24: Compulsory damages following court cases should include an apology and retraction of accusations printed with equal positioning and size of the original defamation, or presented in the same time slot in the case of radio or TV programmes. In addition to this and to a legally-imposed right of reply, it should become accepted as responsible practice among news media to also publish retractions and corrections of wrong and unverified information on the simple request of citizens providing justifications to the contrary. Any such retractions and corrections should be published with the same relevance as the original coverage when the correction of the potential harm done by such false information so justifies. Any public funding should be conditional on the inclusion of such provisions in the code of conduct of the media organisation.

Do you have any observations?

Recommendation 25: To ensure that all media organisations follow clearly identifiable codes of conduct and editorial lines, and apply the principles of editorial independence, it should be mandatory for them to make them publicly available, including by publication on their website.

Do you have any observations?

Recommendation 26: There should be a provision of state funding for media which are essential for pluralism (including geographical, linguistic, cultural and political pluralism), but are not commercially viable. The state should intervene whenever there is a market failure leading to the under-provision of pluralism, which may be considered as a key public good.

Do you have any observations?

Recommendation 27: Any public ownership of the media should be subject to strict rules prohibiting governmental interference, guaranteeing internal pluralism and placed under the supervision of an independent body representing all stakeholders.

Do you have any observations?

Recommendation 28: The provision of funding for cross-border European media networks (including such items as translation costs, travel and coordination costs) should be an essential component of European media policy. Support for journalists specialised in cross-border topics should be included in such funding.

Do you have any observations?

Recommendation 29: Attention is called to national journalism schools and university professors for the possibility of applying to the Jean Monnet programme to support curricula and teaching on coverage of European issues. The Commission should be especially pro-active in informing journalism schools of this possibility and consider this area one of the priorities in the selection procedure under such a programme.

Do you have any observations?

Recommendation 30: EU political actors have a special responsibility and capacity in triggering European news coverage. The Presidents of the EU institutions should regularly organise interviews with a panel composed of national media from across the EU. This format would have the advantage of not only increasing national coverage of EU affairs but also making that coverage more pluralist, since the interviews to be broadcast or printed in the different Member States would include questions from journalists from other Member States.

Do you have any observations?