

The European Media Freedom Act: media freedom, freedom of expression and pluralism¹

ABSTRACT

This study analyses the European Media Freedom Act proposal. It provides a political and historical overview of EU policies in the field of media and on information society at large, also taking into account the debate regarding EU competences on media pluralism and media freedom. The study reasons on the legal basis of the proposed Act, and then analyses the provisions of it under each of the Chapters of the Act, basing on relevant academic literature, policy documents, and empirical data. It concludes with policy recommendations.

The study aims to provide a comprehensive overview and analysis of the academic and policy debate surrounding media freedom and pluralism in Europe, starting from the definition of media and media pluralism, and addressing the challenges of the re-conceptualisation of these terms in the algorithmic society. The objective is to shed light on the debates at EU level that have characterised the choices of the European institutions so far, when addressing the issue of safeguarding media pluralism and media freedom at EU and member state levels. The EU, and before the European Community, has always acknowledged the importance of media pluralism in safeguarding democratic values and the free flow of information; however, the political and legal debate on the division of competences between the EU and its Member States on this matter has posed a significant obstacle in progressing towards a common set of rules to support media freedom and media pluralism.

With this perspective in mind, the study then offers an overview on the EU legislative and soft law measures that are in place to enhance and support journalists and media outlets, focusing also on the measures deployed to fight disinformation. Particular attention is paid to the development of the EU policy coping with the digital revolution, intervening on the regulation of big tech, building of the e-Commerce Directive liability regime that was deemed unfit for to tackle the challenges posed by the services provided by very large online platforms and very large search engines. Ultimately, this study recognises that the European Media Freedom Act (EMFA) does not exist in isolation but is part of a broader context shaped by various policy and legislative initiatives that affect media freedom and pluralism of the media. Therefore, it is essential to examine these initiatives in

¹ Full study in English:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2023/747930/IPOL_STU\(2023\)747930_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/747930/IPOL_STU(2023)747930_EN.pdf)



order to better understand the background against which the EMFA operates, the policy needs, and the appropriate measures to deploy to support media pluralism and media freedom in the EU.

The study, then, focuses more in depth on the EMFA proposal: it reasons on the legal basis (Art. 114 TFEU), and then analyses the provisions of the Act under each of the Chapters composing it. The EMFA Regulation Proposal aims to tackle some of the main issues for media pluralism and freedom as identified by scholars, journalists, policymakers, the industry and a wide range of stakeholders over the years. In particular, it offers definitions of key terms - expanding the scope of previous media policies and taking in consideration provision of media services in the digital environment. It defines rights and duties of media service providers, calling for approximation of the Member States (MSs)' standards in guaranteeing ownership transparency and editorial independence; it innovates the governance structure of media policies establishing a new European Board for Media Services; it opens the way for new methodologies for assessing media market's concentration, taking into account their impact on media pluralism; finally, it seeks to establish more open and harmonised methods for audience measurement. Welcoming these objectives and the overall design of the Act, this study aims to give a detailed account of the debate that emerged between media professionals and experts, adding further inputs at this stage of the legislative proposal.

Lastly, building on a comprehensive research and analysis and highlighting the diverse viewpoints from scholars, experts, policymakers, and civil society actors, the study provides a set of recommendations to the EU policy makers. The suggestions take into account the complexities and nuances of the media landscape while considering the evolving technological and societal dynamics. The recommendations are grouped into three categories: intervention at the EU level, improvements to the EMFA, and additional issues impacting media systems.

i) The first group of recommendations supports the choice of EU-level intervention and regulation to address media systems. The report emphasizes the importance of maintaining a proactive approach to safeguard media freedom and pluralism in the European Union.

ii) The second group of recommendations focuses on improving the proposed EMFA by addressing specific aspects of the regulation and potential shortcomings in its implementation. One key recommendation is to strengthen the inclusivity of protections and safeguards by expanding the definition of media service providers to include new forms of professional journalism beyond traditional newsroom employees. Additionally, the study suggests enhancing transparency obligations for media service providers by requiring disclosure of ownership information to both the public and relevant public authorities. This includes the creation of publicly available registers at national and EU levels. The recommendations also highlight the need for the independence of the European Board for Media Services from the European Commission, along with better agency-based secretariat and consultation with civil society organizations. Furthermore, the study proposes an independent monitoring system for the implementation of Article 17, which pertains to the relationship between media service providers and very large online platforms and search engines. Other recommendations focus on issuing transparent and objective guidelines for assessing media market concentrations, including stakeholders and civil society organizations in the assessment process, monitoring media market concentration on a regular basis with EU-level peer review, and adding safeguards for media market plurality at the local level.

iii) The third group of recommendations addresses issues not covered by the proposed Regulation but that significantly impact media systems and the promotion of media freedom and pluralism. The recommendations draw on the results of the Media Pluralism Monitor project and additional research conducted by the Centre for Media Pluralism and Media Freedom. Key recommendations here include strengthening the political independence of the media by introducing rules to prevent conflicts of interest between media ownership and high-ranking political roles. Another recommendation is to create a more balanced and transparent environment for relationships between media content providers and digital intermediaries, considering the

specific challenges posed by digital platforms. The study suggests providing financial support to journalism as a public good, potentially increasing funding for news media through programs incentivizing innovation, journalistic cooperative initiatives, investigative journalism, and local and community media. It also proposes the establishment of a European Fund for Journalism to support media pluralism and transition in the digital environment. Additionally, the study suggests considering the use of revenues from the taxation of digital companies' profits to support media production and pluralism. Finally, the recommendations emphasize the importance of monitoring and ensuring exposure diversity in media content, and to support independent monitoring initiatives when it comes to practices adopted by very large online platforms addressing systemic risks affecting media pluralism and freedom of the media. In conclusion, need for evidence-based research and a re-conceptualization of media diversity in the digital age is underlined.

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External Authors:

Elda BROGI (Scientific Coordinator), Centre for Media Pluralism and Media Freedom (CMPF), European University Institute (EUI)
Danielle BORGES, Research Associate, CMPF, EUI
Roberta CARLINI, Assistant Part-Time Professor, CMPF, EUI
Iva NENADIC, Research Fellow, CMPF, EUI
Konrad BLEYER-SIMON, Research Associate, CMPF, EUI
Jan KERMER, Research Associate, CMPF, EUI
Urbano REVIGLIO, Research Associate, CMPF, EUI
Matteo TREVISAN, Research Associate, CMPF, EUI
Sofia VERZA, Research Associate, CMPF, EUI

Research Administrator responsible: Ina SOKOLSKA Editorial assistant: Fabienne VAN DER ELST
Contact: poldep-citizens@europarl.europa.eu

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