

Transparency of Media Ownership within the EMFA Proposal

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This policy paper takes a closer look at the provisions on transparency of media ownership under the proposal for the [European Media Freedom Act](#) (EMFA) and their shortcomings to make recommendations on this topic vital to media pluralism, media freedom, and democracy.

The recommendations we make regarding media ownership transparency are the following:

1. Mandate transparency of media ownership for all media service providers;
2. Establish an EU-wide database of media ownership;
3. Ensure national regulatory authorities or bodies develop and maintain national databases of media ownership;
4. Expand the list of media ownership data to be provided by media service providers;
5. Oblige media service providers to report on media ownership information to their national regulatory authorities or bodies;
6. Mandate yearly reports on media ownership data by national regulatory authorities or bodies;
7. Include the obligation for data on media ownership to be made publicly available free of charge, in an electronic and user-friendly manner accessible for people living with disabilities;
8. Include an obligation to update the published information within 30 days of any change occurring; and
9. Introduce a specific requirement in the European Media Freedom Act (EMFA) for a publicly available media ownership database connected to public interest.

The importance of media ownership transparency

Transparency of media ownership strengthens the accountability of media service providers, while with the support of public scrutiny, it enforces media freedom and pluralism. Transparency of media ownership also improves the functioning and convergence of the EU media market. Moreover, transparency is key to informing the public about possible political interference and allowing regulators to prevent media ownership from being excessively concentrated in the hands of too few owners, which have undue influence over democratic discussions.

The Council of Europe Recommendation [CM/Rec \(2018\) 1](#) of the Committee of Ministers recommends states to promote a regime of transparency of media ownership that ensures the public availability and accessibility of accurate, up-to-date data concerning the direct and beneficial ownership of the media, as well as other interests that influence the strategic decision making of the media in question or its editorial line.

The shortcomings of the existing EMFA text

The proposed EMFA is limited in terms of scope and clarity with regard to media ownership transparency. Therefore, we advocate for strengthening the requirements to ensure meaningful transparency at both the national and the EU level by creating media ownership databases.

The Proposal prescribes the obligation to news and current affairs media to publish information about their beneficial owners. The text does not provide proper reasoning why the obligation is limited to news and current affairs media services, while tabloids, history channels, and other media could potentially have the same impact on public discourse and play an important role in media pluralism, access to information and forming the political climate.

Case law relevant to media ownership transparency

Both the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECtHR) consistently recognised that the public has a right to receive information of general interest. The balancing exercise between access to information and the right to privacy and personal data protection takes into account the overriding public interest when there is a legitimate interest in accessing information.

In the case of [Társaság a Szabadságjogokért v Hungary](#) (14 April, 2009), the ECtHR stated that the law could not allow arbitrary restrictions which may become a form of indirect censorship should the authorities create obstacles to the gathering of information. The function of the press includes the creation of forums for public debate. However, the realisation of the function of creating forums for public debate is not limited to the media or professional journalists.

The CJEU also ruled in favour of access to information in the *Camera di Commercio, Industria, Artigianato e Agricoltura di Lecce v Salvatore Manni* case ([C-398/15](#)). Mr. Manni had requested the Lecce Chamber of Commerce in Italy to delete his personal data from that registry, having discovered that potential clients would resort to the registry and see that he had been the administrator of a company that was declared bankrupt more than a decade before. The CJEU ruled that the mere fact that disclosure of Mr. Manni's personal data in the register allegedly affected his clientele could not be considered such a legitimate and overriding reason.

In the recent judgement of [WM \(C-37/20\), Sovim SA \(C-601/20\) v Luxembourg Business Registers](#), the CJEU ruled that the [Anti-Money Laundering Directive's](#) provision of general access to beneficial ownership of corporate and other legal entities is invalid. However, this ruling can not be used as a counter-argument to establishing an EU database about the beneficial ownership

chain. Furthermore, the ruling only references “legitimate interest” in Article 30(5)(c) Anti Money Laundering Directive as it currently stands; it is only to be considered in relation to the prevention and combating of money laundering and terrorist financing.

It is important to note that the ruling underlines that civil society organisations and the press have a legitimate interest in accessing the information on beneficial ownership even in relation to money laundering and terrorist financing.

Detailed recommendations on the transparency of media ownership within the EMFA

All media service providers, not just those providing “news and current affairs content”, must be obligated to make publicly available information on their ownership. A general distinction cannot be drawn between media that affect democratic processes, and should thus be publicly available in the name of public interest, and media that do not have this impact. All types of media are vital for a balanced civic environment.

Additionally, we propose that, for the sake of meaningful transparency about media owners’ power in influencing the tone of reporting, the list of information to be made publicly available should be expanded to include data set forth in the [Commission Recommendation 2022/1634](#). Furthermore, data on media ownership must be made accessible to the public, including persons with disabilities, free of charge, in a user-friendly manner, over an online interface, and be regularly updated. Therefore, we propose information on owners of media service providers must be updated within 30 days of any change to the submitted data.

To further ease access of citizens and civic watchdogs, such as journalists and CSOs, to media ownership data, national regulatory authorities or bodies should develop and maintain national databases. These should contain information about the entire beneficial ownership chain of media at national, regional, and local levels. The databases should be regularly updated and freely accessible to the general public.

National regulatory authorities or bodies should also produce regular reports on the ownership of media services under the jurisdiction of a given Member State. With the help of civil society and academics, the collection of data should be reviewed on a regular basis.

As media ownership is key to the internal market, the EMFA should also require the creation of an EU-wide database that draws upon the national databases. An EU-level database would ensure transparency of media ownership and also support the analysis of cross-border ownership cases and national and regional media concentration.

We strongly support the [Euromedia Ownership Monitor](#) project coordinated by the University of Salzburg, financed by the European Commission, to map out the beneficial ownership chain in the field of media across the EU, which is crucial for the European single market. The project covers 15 EU countries and is [set to expand](#) to all of them.

In order to avoid legal uncertainty, we suggest the legislators specifically determine the requirement for a publicly available media ownership database and connect it with the public interest, because the media helps form public opinion and has a direct influence on the outcome of elections. By doing so, EU legislators could prevent further limiting access to information and forming an opinion of media ownership.

Proposed Amendments

Article 6

Duties of media service providers providing news and current affairs content

~~1. Media service providers providing news and current affairs content shall make easily and directly accessible to the recipients of their services the following information:~~

~~(a) their legal name and contact details;~~

~~(b) the name(s) of their direct or indirect owner(s) with shareholdings enabling them to exercise influence on the operation and strategic decision making;~~

~~(c) the name(s) of their beneficial owners within the meaning of Article 3, point 6 of Directive (EU) 2015/849 of the European Parliament and of the Council.~~

~~(...)~~

Article 6a

Media ownership transparency

1. Media service providers shall make publicly available and accessible in line with the accessibility requirements outlined in Directive 2019/882 through electronic and user-friendly means the following information:

(a) their legal name and contact details and registration numbers;

(b) the name(s) and contact details of their direct or indirect owner(s) with shareholdings enabling them to exercise influence on the operation and strategic decision making;

(c) the name(s) of their beneficial owners within the meaning of Article 3, point 6 of Directive (EU) 2015/849 of the European Parliament and of the Council;

(d) whether and if so to what extent their direct or beneficial ownership is held by the government, a state institution, state-owned enterprise or other public body;

(e) the interests, links or activities of their owners and their family members known to be close associates of politically exposed persons as defined in Article 3 points 9, 10, 11 of Directive (EU) 2015/849 of the European Parliament and of the Council;

(f) the interests, links or activities of their owners and their family members in other media or non-media businesses;

(g) any other interests that could influence their strategic decision-making or their editorial line.

2. Media service providers shall update the information made available according to paragraph 1 within 30 days of any change to their ownership or control arrangements.

3. National regulatory authorities or bodies established in accordance with Directive 2010/13/EU shall establish national databases of media ownership.

4. Media service providers shall submit the information made publicly available according to paragraph 1 to the national databases of media ownership established according to paragraph 3 within 30 days of any change to their ownership or control arrangements.

5. National regulatory authorities or bodies established in accordance with Directive 2010/13/EU shall submit data provided according to paragraph 4 to the European Database of Media Ownership.

6. National regulatory authorities or bodies shall monitor and produce yearly reports regarding the ownership in media markets within their Member State. In order to assess the accuracy of the information on media ownership made available pursuant to paragraph 4, national regulatory authorities or bodies may request from media service providers further information.

and corresponding recital:

(28) Ensuring a consistent regulatory practice regarding this Regulation and Directive 2010/13/EU is essential. For this purpose, and to contribute to ensuring a convergent implementation of EU media law, the Commission may issue guidelines on matters covered by both this Regulation and Directive 2010/13/EU when needed. When deciding to issue guidelines, the Commission should consider in particular regulatory issues affecting a significant number of Member States or those with a cross-border element. This is the case in particular for national measures taken under Article 7a of Directive 2010/13/EU on the appropriate prominence of audiovisual media services of general interest. In view of the abundance of information and the increasing use of digital means to access the media, it is important to ensure prominence for content of general interest, in order to help achieving a level playing field in the internal market and compliance with the fundamental right to receive information under Article 11 of the Charter of Fundamental Rights of the Union. Given the possible impact of the national measures taken under Article 7a on the functioning of the internal media market, guidelines by the Commission would be important to achieve legal certainty in this field. ~~It would also be useful to provide guidance on national measures taken under Article 5(2) of Directive 2010/13/EU with a view to ensuring the public availability of accessible, accurate and up-to-date information related to media ownership. In the process of preparing its guidelines, the Commission should be assisted by the Board. The Board should in particular share with the Commission its regulatory, technical and practical expertise regarding the areas and topics covered by the respective guidelines.~~

(28a) Transparency of media ownership is the precondition to a fuller understanding of media ownership in Europe and makes media pluralism effective. A media ownership database constitutes a valuable resource for citizens and a wide range of stakeholders, but collecting such information in a comprehensive manner remains a challenge. Therefore, Member States and the Board actively participate in information gathering, updating and dissemination activities relating to media-ownership issues.

(28b) National regulatory authorities or bodies established in accordance with Directive 2010/13/EU uphold a media ownership database in order to ensure the public interest because the media helps form public opinion and has direct influence on the outcome of elections. The Commission provides guidance on national measures taken under Article 5(2) of Directive 2010/13/EU with a view to ensuring the public availability of accessible, accurate and up-to-date information related to media ownership. In the process of preparing its guidelines, the Commission should be assisted by the Board. The Board should in particular share with the Commission its regulatory, technical and practical expertise regarding the areas and topics covered by the respective guidelines.

Article 12

Tasks of the Board

Without prejudice to the powers granted to the Commission by the Treaties, the Board shall promote the effective and consistent application of this Regulation and of national rules implementing Directive 2010/13/EU throughout the Union. The Board shall:

(...)

- (n) draw up and make available to national regulatory authorities and bodies established according to Directive 2010/13/EU a template for reporting on the ownership of media service providers according to Article 6(4) of this Regulation;**

- (o) establish and operate a European Database of Media Ownership collecting information related to the ownership of media service providers.**

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