



BRUSSELS, 17 - 18 November 2016

Annual Colloquium on Fundamental Rights 2016
"Media pluralism and democracy"

Public Consultation Summary Report

This summary presents the main outcomes of the consultation organised by the European Commission between 19 May and 21 July 2016 in preparation for the 2016 Annual Colloquium on Fundamental Rights 'Media Pluralism & Democracy'. The Commission received 87 responses from 19 different EU countries and two non-EU countries. Thirty-two responses came from individual citizens. The others came from a mix of civil society organisations, industry bodies, and companies, including public service media, regulatory authorities, religious groups, and transnational inter-governmental organisations such as the OSCE and UNESCO. The content of this document is a summary of the views expressed by the respondents of the public consultation. It does not reflect the official opinion of the European Commission.

Brussels, 14 October 2016

Media freedom and independence

1. Most respondents said that **the state should provide a framework for media freedom and pluralism**. Several mentioned the need for clear legal frameworks, especially sector-specific ownership concentration rules that would however also take the sector's financial constraints into account. Some suggested that countries should make use of 'public interest tests' and transparency rules to ensure the diversity of media ownership.
2. Most respondents considered the **transparency of ownership** as fundamental to media freedom and pluralism. Respondents gave examples of threats from owners protecting other businesses, owners with political goals and over-reliance on a few large advertisers. Multiple respondents suggested national and EU-wide databases, the strengthening of national or EU transparency rules and the extension of transparency and ownership rules to online platforms.
3. Most respondents saw **public service media** as vital to media freedom and pluralism, with their role described as providing diverse, factual, and unbiased information and setting standards for high-quality journalism. Many highlighted the need for public service media to be accountable, independent from politics and government, and to function based on a clear remit. Adequate funding was seen as essential to ensure quality and independence from political and commercial influence. Several respondents also pointed out that in ensuring adequate funding for PSM, state aid should not undermine the sustainability of commercial media that are also important to plurality. Examples of a lack of independence came from 16 different Member States and included legislative changes altering the governance of public service media and their management bodies, politically motivated manipulation of funding and politically motivated staffing changes.
4. The **media regulatory authorities' independence** from politics and industry was highlighted as crucial for ensuring media freedom and pluralism. Most respondents who raised this issue considered that independent regulators should have a clear remit and enough resources and powers to fulfil their mission. Respondents reported independence issues in a number of Member States, including issues resulting from legislative changes altering the governance or mission of the regulatory body, non-legislative parliamentary initiatives to diminish or sideline the regulator and the regulator's unfair action or lack of action that discriminated against one or more stakeholder groups.

Media convergence

5. Almost all respondents found that, with the boom in social media and platforms, **media convergence** changed business models and consumption patterns. They considered that institutions which had traditionally invested in journalism were now threatened by online 'information intermediaries' who capture the biggest share of advertising revenue traditionally used to fund investment in news and ask news providers to pay to make their content cheap and easily and accessible to users ('zero-rating agreements'). This was seen as jeopardising the financial sustainability of resource-intensive investigative and quality journalism, especially in a new media environment where low-cost commercial, popular and fast content is on the rise ('click-bait'). Many respondents mentioned the use of algorithms by social media that filter the information reaching the user, based on profiles and preferences. They questioned the impact of such filters on the possibility to access a variety of views and information and the resulting effect on a sound and well-informed democratic debate. However, several respondents underlined the benefits of the converged media environment as it: enables political actors to reach out to citizens; makes it possible for citizens to engage and participate in a way that is particularly appreciated by the younger generation; enables civil society to play a watchdog role; makes it easier for journalists to work more independently and disseminate information quickly; opens the door to new business models and so-called 'citizen journalism'.

6. **Media literacy** was seen as a way for citizens to develop critical thinking, which is especially important in the new converged media environment where the shaping of ideas increasingly happens online. Respondents offered numerous examples of specific programmes and initiatives to improve media literacy. Most of these targeted young people, although the challenge of and strong need to promote media literacy among adults was also underlined. There were two common themes: a focus on the critical assessment of media and good citizenship practices in media (including media literacy programmes against hate speech) and the use of direct engagement in media production. In the latter, cooperation with journalists and in particular with local or community media was highlighted. Schools and media were seen as the most suitable actors for the promotion of media literacy. Examples of collaborative projects between media companies (some public service media) and schools from Sweden, Portugal, Belgium and Cyprus were cited as best practices. UNESCO also highlighted the use of its *Media and Information Literacy Curriculum* for teachers as a best practice.
7. Respondents underlined the importance of **self-regulation, media ethics** and professional standards. Certain respondents underlined that ethics and standards were particularly needed in the new media environment. The tools proposed included: a broadly applicable code of ethics, ethics training in news media, accountability and responsibility, and the involvement of civil society.

Protection and responsibility of journalists

8. Respondents highlighted physical violence, hate speech, prosecution, surveillance and administrative barriers as the main obstacles to the independent and free work of journalists. They mentioned a number of internationally agreed principles, guidelines, recommendations and toolkits as useful starting points for improving legal frameworks and state practice. In addition, respondents referred extensively to the collaborative 'mapping media freedom' project under which instances of violence against journalists, criminal cases brought against journalists and other limitations faced by members of the press are tracked in an online record and interactive portal. Respondents strongly underlined the correlation between the above issues and **self-censorship**.
9. The responses clearly showed that **physical violence against journalists** remains a problem in the EU and may even be on the rise. Examples given included incidents of murder and extreme violence. Journalists reporting on organised crime and corruption were mentioned as a specific target group. Of particular concern are the rising risks and threats against journalists driven by extremist groups.
10. Respondents provided strong evidence that **hate speech against journalists** is a significant problem in the EU. One example given was a Swedish study which found that one in three journalists had been targeted by hate speech or harassment online. According to several respondents who commented on this issue, the problem disproportionately affects female journalists. Evidence from the OSCE's Representative of Freedom of the Media (RFoM) compiled from various sources since early 2015 was quoted and demonstrated this clearly. Multiple respondents also cited The Guardian's analysis of 70 million online comments, which confirmed the findings of the RFoM's research showing that online hate speech and harassment disproportionately affects female journalists. Several respondents noted the 'chilling effect' of threats and hate speech against individual journalists, and the need for states to protect journalism and safety of journalists and other media actors. Some respondents also called upon mainstream media and journalists to set better examples in terms of diversity and to openly denounce hate speech (see also point 7).
11. The excessive and targeted use of laws on **defamation libel, insult and offense** was also mentioned as a regular threat to the free work of journalists. Several respondents noted significant progress in defamation and libel reform across the EU. However, several respondents claimed that some countries have overly restrictive defamation laws in place. Recent cases in which insult or offense laws were used against media

professionals were also given as examples of this problem. One respondent suggested that countries implement so-called anti-SLAPP measures (Strategic Lawsuits against Public Participation) to protect journalists from legal excesses and frivolous lawsuits.

12. Respondents mentioned **prosecution and the surveillance of journalists' communication** for security, anti-terror or state and business secrecy purposes as government or state action posing significant threats to the freedom of expression and privacy of journalists. They also mentioned administrative obstacles (heavy accreditation procedures). Examples came from multiple Member States. Respondents referred to the 2013 PEN study¹ as showing the chilling effect of surveillance on journalism, especially investigative journalism. They provided several examples of security forces directly targeting journalists in order to uncover the sources on particular stories. They suggested European action to prevent the surveillance of journalists, and further normalisation of the use of secure communication tools by journalists. The Global Principles on National Security and the Right to Information` known as the `Tshwane Principles` that were agreed upon by officials from the African Commission on Human and Peoples' Rights, the Organisation of American States, the OSCE and the UN were proposed as a good basis for re-balancing national security concerns with public interest in quality journalism. Member States were also urged to effectively implement Article 85 of the new General Data Protection Rules.
13. Respondents considered that **whistleblowers** in the EU are not sufficiently protected. Several directly called for an EU directive on whistleblowers to set some minimum protection standards. Others suggested that changes must be made to sectorial EU instruments in order to effectively protect whistleblowers. The difficulty in protecting sources is one of the main challenges to investigative journalism mentioned. In addition to insufficiencies in whistleblower protection, the surveillance of journalists either under investigatory powers or anti-terror legislation was commonly cited as deterring investigative journalism (see point 12 above). Lack of funding was another significant challenge for investigative journalism, with many respondents noting the eroding income streams of institutions that traditionally invested in investigative journalism. Crowdfunding and crowdsourcing of investigative journalism, as well as direct funding through foundations or ring-fenced public funds, were highlighted as best practices for addressing this problem.

¹ https://pen.org/sites/default/files/Chilling%20Effects_PEN%20American.pdf