

# 2016 Annual Colloquium on fundamental rights Public consultation\* on "MEDIA PLURALISM AND DEMOCRACY"

Fields marked with \* are mandatory.

## Introduction

---

Media freedom and pluralism are essential safeguards of well-functioning democracies. Freedom of expression and media freedom and pluralism are enshrined in the EU Charter of Fundamental Rights and they are at the core of the basic democratic values on which the European Union is founded.

The second Annual Colloquium on Fundamental Rights will take place on 17-18 November 2016. It will provide the stage for an open exchange on the many different aspects of media pluralism in a digital world, and the role of modern media in European democratic societies.

The colloquium should enable policymakers at EU and national level and relevant stakeholders — including NGOs, journalists, media representatives, companies, academics and international organisations — to identify concrete avenues for action to foster freedom of speech, media freedom and media pluralism as preconditions for democratic societies.

The Commission's objective with this public consultation is to gather broad feedback on current challenges and opportunities in order to feed into the colloquium's discussions. The questions asked are thus meant to encourage an open debate on media pluralism and democracy within the European Union — without, however, either prejudging any action by the European Union or affecting the remit of its competence.

**Wichtig - Öffentliche Konsultation (auf deutsch) / Important -  
consultations publiques (en français)**

---

DE

[DE - Konsultationen.docx](#)

FR

[FR - consultation.docx](#)

## IMPORTANT NOTICE ON THE PUBLICATION OF CONTRIBUTIONS

---

\*Contributions received from this survey will be published on the European Commission's website. Do you agree to the publication of your contribution?

- Yes, my contribution may be published under my name (or the name of my organisation);
- Yes, my contribution may be published but should be kept anonymous (with no mention of the person/organisation);
- No, I do not want my contribution to be published. (NB — your contribution will not be published, but the Commission may use it internally for statistical and analytical purposes).

*For further information, please consult the privacy statement [click below]*

[Privacy statement\\_2016ac\\_public\\_consultation.pdf](#)

### A. Identifying information

---

1. In what capacity are you completing this questionnaire?

- Individual/private person
- Civil society organisation
- Business
- Academic/research institution
- Other (please specify)

2. If you are answering this consultation as a private citizen, please give your name.

3. If you are answering this consultation on behalf of an organisation, please specify your name and the name of the organisation you represent.

Broadcasting Authority of Ireland

Is your organisation included in the Transparency Register?

- Yes
- No

If yes, please indicate your Register ID-number

If your organisation is not registered, we invite you to register [here](#). Please note that it is not compulsory to register to reply to this consultation. Responses from organisations that are not registered will be published as part of the individual contributions.

*Citizens have a right to expect that European institutions' interaction with citizens associations, NGOs, businesses, trade unions, think tanks, etc. is transparent, complies with the law and respects ethical principles, while avoiding undue pressure, and any illegitimate or privileged access to information or to decision-makers. The Transparency Register exists to provide citizens with direct and single access to information about who is engaged in activities aiming at influencing the EU decision-making process, which interests are being pursued and what level of resources are invested in these activities. Please help us to improve transparency by registering.*

4. If you are an individual/private person:

a) What is the country of your nationality?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other (please specify)

Other (please specify)

b) What is your age group?

- Under 18
- 18-30
- 31-40
- 41-50
- 51-60
- 61-70
- Over 71

## B. Media freedom and pluralism

---

5. In the context of media freedom and pluralism, what should be the role of the State, if any, in the regulation of media? What should be the role of self-regulation?

The Broadcasting Authority of Ireland (BAI) is the independent and independently financed regulator of broadcast media in Ireland. The BAI is empowered to regulate these services under the Broadcasting Act 2009. The BAI agrees with the Irish legislation's position that regulation of broadcasters, which includes ensuring media freedom and pluralism, is best provided by an independent regulator.

Under section 25 of the Act the objectives of the BAI are to endeavour to ensure that the number and categories of broadcasting services made available in the State best serve the needs of the people of the island of Ireland, bearing in mind their languages and traditions and their religious, ethical and cultural diversity; that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, are upheld, and; the provision of open and pluralistic services.

In addition, the BAI has powers to ensure and, if requested comment to the relevant Minister, on the effect any media merger would have on the plurality of media in the State. The legislation in this area is the Competition and Consumer Protection Act 2014. Plurality of media includes diversity of ownership and diversity of content. This overtly acknowledges the undesirability of allowing any one undertaking to hold significant interests within a sector or across different sectors of media businesses in the State. In this area the relevant Minister for Communications has a role in protecting pluralism, separately from regulated competition laws and has the ability to refuse or impose certain conditions on a media merger.

Newspapers operate on a self-regulating basis, under the aegis of the Press Ombudsman and Press Council. There is no regulation of linear media, save that traditional media such as broadcasters and periodicals in the linear space tend to adhere to their non-linear (self) regulation requirements. The BAI has no remit in the context of self-regulation regarding plurality. In respect of media freedom, the BAI has a role solely in the broadcast sector which it regulates. Section 39 of the Broadcasting Act requires news broadcasts to be reported and presented in an objective and impartial manner and without any expression of the broadcaster's own views. In a similar way the Act requires that broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner, without any expression of his or her own views. Section 39 also stipulates that party political broadcasts are permitted provided that a broadcaster does not, in the allocation of time for such broadcasts, give an unfair preference to any political party.

6. Could you provide specific examples of problems deriving from the lack of independence of media regulatory authorities in EU Member States?

The BAI operates entirely independently of government and is not financially dependent on the Exchequer, being financed via a levy of the broadcasting industry. The Minister for Communications appoints half of board members, a parliamentary committee appoints the other half. Members must be qualified and conflict free.

It is our belief that a regulator whose Board and staff operate and derive their authority independently from government is the best way to ensure independence. As we are fully independent we do not feel it appropriate to provide specific examples of problems as these would be theoretical in nature and not derived from experience.

7. What competences would media regulatory authorities need in order to ensure a sufficient level of media freedom and pluralism?

Clear, transparent and accountable powers via legislation is key in ensuring media freedom and pluralism. The BAI also acknowledge external factors such as cultural practice in Ireland expecting fair and objective journalism from its media and commercial practice in competing in a small country with nonetheless a large digital audience.

Please see legislative powers outlined in question 5 above. To note, the BAI and the Minister have powers under the Competition and Consumer Protection Act in a media mergers examination to request submissions from media businesses detailing how the proposed merger would impact plurality of media. The Minister may approve a merger, approve with conditions or refuse. If the Minister requests the BAI's comment in the matter, he/she has regard to the recommendations of the BAI in the decision. This role is separate to the Competition Commission's role which assesses the impact on the competitive market.

8. What should be the role of public service media for ensuring media pluralism?

Public service media play a key role in ensuring media pluralism. They have a statutory obligation to ensure that their programmes reflect the varied elements which make up the culture of the people of Ireland; uphold democratic values especially those relating to rightful liberty of expression; and have regard to the need for the formation of public awareness and understanding of the values and traditions of countries other than the State. In this way, public service media have obligations to ensure plurality of views and voices - both national and international.

9. How should public service media be organised so that they can best ensure the public service mandate?

Adequate funding is key to ensuring public service media can deliver high quality public service broadcasting. Similarly, independence from political and commercial influence plays an important role. In Ireland, one PSM is funded entirely from the Exchequer (with a small amount from a TV licence fee). The other PSM is funded from the TV licence fee and commercial income, mainly advertising. Commercial income is accounted for separately and there are rules governing this income. Similarly, State Aid rules from EU preclude the PSMs abusing any commercial position. PSMs are obliged to publish their accounts publicly.

PSMs are also structured with appointments to boards operating in a similar manner to the way the Irish broadcasting regulator - with independent appointments of conflict-free and qualified people who are accountable to the public and parliament.

10. Have you experienced or are you aware of obstacles to media freedom or pluralism deriving from the lack of independence of public service media in EU Member States?

- Yes
- No

If yes, please give specific examples.

11. Are you aware of any problems with regard to media freedom and pluralism stemming from the lack of transparency of media ownership or the lack of rules on media ownership in EU Member States?

- Yes
- No

If yes, please give specific examples.



**12. Please indicate any best practice on how to ensure an appropriate level of transparency and plurality of ownership in this area.**

See responses to question 5 above. Clear legislation allows the relevant government Minister to make a transparent decision in respect of pluralism in the event of a media merger. An independent regulator with clear legislative powers can play an important role in this area, even outside a media merger, via its Ownership & Control Policy. In this way media mergers and changes within existing regulated broadcast services are considered in the context of pluralism.

The Competition and Consumer Protection Act 2014 clearly outlines the undesirability any one undertaking to hold significant interests within a sector or across different sectors of media business in the State. The Act also acknowledges the balancing role of PSMs, who have statutory obligations around diversity of views, in the context of media freedom and plurality.

Research (national and international) on audience consumption and on levels of ownership and control are also helpful.

**13. What is the impact of media concentration on media pluralism and free speech in your Member State? Please give specific examples and best practices on how to deal with potential challenges brought by media concentration.**

This is an area where Ireland has only started to perform research. Ongoing research in existing concentrations and structures of ownership and control in media businesses will allow undertakings, regulators, legislators and the public to have an informed discussion in the context of media mergers and media concentration. Similarly, research on how people access and consume media, particularly news and current affairs, will lead to best practices. The BAI is conscious that diversity of content plays a role in media freedom as well as ownership and control.

The Broadcasting and Competition Acts also acknowledge the undesirability of having one undertaking controlling or holding significant interests across media. Finally, relevant legislation outlines the importance of diversity of sources and editorial independence.

As an example, a new entrant to the broadcasting market was granted a contract by the BAI on the basis that they would have significant regulated news and current affairs content. Separately, the Minister and communications network regulator allowed them access to free to air platforms on the basis that the new service conformed to the character of a public service. In another example, the BAI in conjunction with the Irish Competition Authority, required a media business to divest itself of radio services as a condition of approval in their respective determinations on an acquisition. This decision was required to be ratified by a Minister.

14. Are you aware of any problems related to government or privately financed one-sided media reporting in the EU?

- Yes
- No

If yes, please give specific examples.

15. Please indicate any best practice to address challenges related to government or privately financed one-sided media reporting while respecting freedom of speech and media pluralism.

## C. Journalists and new media players

---

16. What is the impact of media convergence and changing financing patterns on quality journalism?

17. Have you ever experienced, or are you aware of, any limitation imposed on journalistic activities by state measures?

- Yes
- No

If yes, please give specific examples and further information, including justifications given by authorities and the position taken by journalists.

18. Please indicate any best practice that reconciles security concerns, media freedom and free speech in a way acceptable in a democratic society.

19. Have you experienced, or are you aware of, limitations related to privacy and data protection imposed on journalistic activities?

- Yes
- No

If yes, please give specific examples and further information.

20. Have you experienced, or are you aware of, problems linked to hate speech and threats directed towards individuals exercising journalistic activities?

21. Are you aware of cases where fear of hate speech or threats, as described above, has led to a reluctance to report on certain issues or has had a generally chilling effect on the exercise of freedom of speech?

- Yes  
 No

If yes, please give specific examples and further information.

22. Have you experienced, or are you aware of, problems concerning journalists' safety and security in the EU?

- Yes  
 No

If yes, please give specific examples.

23. Please indicate any best practice for protecting journalists from threats against their safety and security.

24. Have you ever experienced or are you aware of pressures put by State measures on journalistic sources (including where these sources are whistleblowers)?

- Yes  
 No

If yes, please give specific examples.

25. How would pressures on journalistic sources be best addressed?

26. Please indicate any best practice for protecting the confidentiality of journalistic sources/whistleblowers.

27. Have you experienced, or are you aware of, censorship (including self-censorship) in the EU?

- Yes  
 No

If yes, please give specific examples.

28. Have you experienced, or are you aware of, any obstacles to investigative journalism, which may include legal provisions in force or a lack of resources?

29. Do you consider that the level and intensity of investigative journalism, the number of journalists engaged in such activity, the resources available, the space in print and the time available in audiovisual media for the publication of results of investigations has changed over time?

- Yes  
 No

If yes, please give specific examples.

30. Please indicate any best practice facilitating investigative journalism

## D. Hate speech online

---

31. What would be the most efficient ways to tackle the trivialisation of discrimination and violence that arises through the spreading of hatred, racism and xenophobia, in particular online?

32. How can a better informed use of modern media, including new digital media ('media literacy') contribute to promote tolerance? Please indicate any best practice.

## E. Role of free and pluralistic media in a democratic society

33. How do developments in media freedom and pluralism impact democracy? Please explain.

Media freedom plays a key role in democracy, particularly in freedom of expression. Clear legislative requirements regarding freedom of expression of the media assist the larger public to make informed decisions. A trusted and valued media plays a key role in democracy, particularly in holding authority to account. As a regulator it is our role to ensure audiences have access to a diverse range of services, programming and perspectives from valued and trusted sources.

34. Who do you think is the most suited to help increase media literacy? Please rank and explain why.

	The most important - 1	2	3	4	5	6	7	The least important - 8
Family	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Friends	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
School	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Public authorities	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Media, including online providers	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Dedicated learning systems using e.g. radio, TV, mobile phones and the internet (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Civil society	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Other - please specify

unknown

**35. Please give specific good examples or best practices for increasing media literacy.**

The BAI operates a range of services to assist media literacy. These include research, sectoral development funding, sponsorship and public events, collaboration with key groups such as the National Disability Association, complaints handling and in programming grants.

Research - direct funding of media literacy research.

Sectoral development funding - direct funding of media literacy events and conferences

Sponsorship and public events - direct funding of Films Festivals, public conversations, digital technology forums.

Collaboration - with key groups such as the National Disability Association

Complaints handling - review of complaints processes to allow for public-facing and easy to access ways to complain about programmes and broadcasters

Programming grants - the BAI's Sound & Vision fund directly funds production of programmes, one of the available categories is Media Literacy.

In addition the BAI is currently formulating a specific media literacy policy which aims to increase and facilitate media literacy for the Irish audience to enable them to understand, participate in and interact with the media environment.

**36. What would be concrete ways for free and pluralistic media to enhance good governance and transparency and thus foster citizens' democratic engagement (e.g. self-organisation for political purposes, participation in unions, NGOs, political parties, participation in elections)?**

See list outlined above. The BAI's media literacy policy also aims to foster research, activity and measures that will enable better coordination of stakeholders' media literacy activity focused on their specific audiences, and their particular areas of interest and strengths. The new policy will encourage a wider range of stakeholders to play their part, in ways consonant with and supportive to the BAI strategy.

**37. What are best practices of free and pluralistic media contributing to foster an informed political debate on issues that are important for democratic societies (e.g. in terms of the nature of the content or in terms of format or platforms proposed)?**

See previous responses. In summary, best practices include fairness and impartiality requirements in news reporting; ensuring matters of current public debate or controversy are presented in a manner that is fair to all interests concerned and presented in an objective and impartial manner and that broadcasters are held to account when these requirements are breached. A diversity of sources, views and opinions from valued, securely financed and trusted media is important.

38. Which measures would you consider useful to improve access to political information across borders? Please indicate any best practice.

39. Do you consider that social media/platforms, as increasingly used by candidates, political parties and citizens in electoral campaigns play a positive role in encouraging democratic engagement?

- Yes  
 No

If yes, please give specific aspects and best practices that you would recommend.

If no, please give specific aspects and examples of negative impacts, and possible alternatives to address them.

40. Do you consider that there are specific risks or problems regarding the role of platforms and social media — in relation to pluralism of the journalistic press or more generally — as regards the quality of the democratic debate and the level of engagement?

- Yes  
 No

If yes, please give specific examples and best practices that you would recommend to address these risks or problems.

## Contact

JUST-COLLOQUIUM@ec.europa.eu

---