



EUROPEAN COMMISSION

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*Bodo RAMELOW
President of the Bundesrat
Leipziger Straße 3 - 4
D – 10117 BERLIN*

Dear President,

The Commission would like to thank the Bundesrat for its own-initiative Opinion on the Commission's announced European Media Freedom Act and for its broad support to the initiative.

As the Bundesrat rightly underlines, media freedom and pluralism are enshrined in the Charter of fundamental rights of the EU and are central for the rule of law and for democracy, which are fundamental EU values and priorities for the Commission¹ and for the EU as a whole². Media freedom and pluralism are also drivers for trust and a level playing field in the internal market³.

As President von der Leyen emphasised in her 2021 State of the Union address when announcing the European Media Freedom Act, “media companies cannot be treated as just another business”. The Commission is pleased that the Bundesrat shares this view. News media are indeed not only an economic sector. They are a public good. Journalists need to be able to investigate matters and impart information freely, without undue interference from a political or private power. Editorial independence is a key component of a healthy democracy in which the rule of law prevails. The Russian war of aggression against Ukraine highlights the importance of free and independent media to combat disinformation, which undermines our information space and democratic model.

¹ [Political guidelines of the Commission](#) 2019-2024.

² [EU strategic Agenda](#) 2019-2024.

³ [Regulation](#) (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget, OJ L 433I, 22.12.2020, p. 1. See in particular recital 11.

People need to be able to trust the information they receive in order to exercise their democratic rights. They need to have access to a plurality of views in order to form their own opinion. Transparent and trustworthy information is instrumental also for businesses to make informed choices when they operate and invest cross border. This was made clear in the 2020 European Democracy Action Plan⁴ and the EU Media and Audiovisual Action Plan⁵.

As the Bundesrat rightly underlines, the trends are, however, worrying. The Commission's annual Rule of Law reports⁶ and the recent editions of the Media Pluralism Monitor⁷ provide evidence that the internal market is affected by instances of public and private interference in the ownership, management and operation of media outlets. The results of the consultations carried out to prepare the European Media Freedom Act confirm these findings. In our value-based Union, there need to be common principles acting as safeguards to address such worrying developments. The Commission would like to address these issues for the media sector as a whole, building on the Audiovisual Media Services Directive. The Commission welcomes the Bundesrat's support for this sector-specific approach.

This work will also complement efforts to protect and empower journalists, in particular the Commission's recommendation to strengthen the safety of journalists and other media professionals⁸, and its recent initiative on abusive litigation targeting journalists and human rights defenders who engage in public participation (SLAPP). The Commission can only agree with the Bundesrat that the increasing threat to journalists due to hatred, harassment and physical attacks is a threat to media freedom.

The aforementioned consultations furthermore show that the combination of diverging national media rules, arbitrary restrictions to market entry and insufficient market transparency, in particular on ownership structures and allocation of state resources, as the Bundesrat also highlights, make it difficult for media market players to use the internal market to its full potential. There is also a call for strengthened cooperation between the independent regulators of the Member States in the media sector. A strengthening of the framework for regulatory cooperation could in particular facilitate the enforcement of the EU media framework in the cross-border context. Moreover, it could enable collective action by regulators in exceptional circumstances with regard to third country outlets not following EU media standards and values, so that viewers are effectively protected across Europe.

Lifting disproportionate barriers and promoting a common approach and further cooperation for a smooth functioning of the internal market will be a key objective for the Commission. A thriving EU media market is an opportunity for media outlets to produce and sell their content, to reach wider audiences, to find synergies and to

⁴ [COM\(2020\)790](#).

⁵ [COM \(2020\)784](#).

⁶ See the [2020](#) and [2021](#) Rule of law reports.

⁷ <https://cmpf.eui.eu/media-pluralism-monitor/>.

⁸ [C\(2021\)6650](#).

innovate across the internal market. This is particularly relevant in a rapidly changing market environment which becomes increasingly cross-border in its nature, and in which, due to the on-going digitalisation, media outlets compete with powerful online players. As underlined in the 2020 EU Media and Audiovisual Action Plan⁹, media companies should be able to consider the EU as their native market. This is key for Europe's competitiveness in the media sector. In this regard, the Commission would agree with the Bundesrat that Article 114 TFEU is a relevant legal base to consider for the European Media Freedom Act and welcomes the Bundesrat's interest to further exchange on this with the Commission.

The Commission notes the Bundesrat's words of caution as to the impacts an EU initiative could have on existing national pluralistic media systems such as in Germany. The Commission takes these concerns seriously. It will take due account of existing national and regional systems and put forward an approach built on existing best practices in the Member States. It is not the Commission's intention to interfere in the organisation of the dual broadcasting system in Germany or any other Member State, but rather to support safeguards for media freedom and pluralism. As stated earlier, the European Media Freedom Act will also build on the EU's existing legislative framework, including competition rules. The Commission shares the Bundesrat's view that a key objective must be to safeguard media pluralism and thus the diversity of opinions also at local and regional level. The Commission is following the ongoing discussions on this issue in Germany with interest.

The Commission also duly notes the Bundesrat's request to indicate the relationship between the provisions to be included in the upcoming European Media Freedom Act on the allocation of state advertising and the proposed Regulation on Transparency and Targeting of Political Advertising. Once again, be reassured that the Commission's initiative will build on the EU's existing legislative framework, bridging the gaps where relevant to ensure the proper functioning of the internal market and the safeguarding of media freedom and pluralism.

As for the governance, the Commission aims to build on existing structures such as the national regulators, gathered at EU-level in the European Regulators Group for Audiovisual Media Services (ERGA). As the Bundesrat rightly points out, independence is essential in media regulation. The Commission takes note of the Bundesrat's suggestion to abstain from establishing a new EU media regulatory authority and of its support for the addition of an independent secretariat to the European Regulators Group for Audiovisual Media Services.

The Commission values the Bundesrat's early engagement at this stage of the policy making process and will take its Opinion into account, alongside other contributions received, in the design of the European Media Freedom Act. The Commission is engaging with the German authorities, at federal and regional levels, as well as with German stakeholders in the preparation of the European Media Freedom Act.

⁹ [COM\(2020\) 784](#).

The Commission hopes that the clarifications provided in this reply address the issues raised by the Bundesrat.

Together with Vice-President Věra Jourová, we are looking forward to continuing the political dialogue with the Bundesrat in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Thierry Breton
Member of the Commission*