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 - Offentliche Konsultation (auf deutsch) / Important - consultations publiques (en français)

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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 (NB — your contribution will not be published, but the Commission may use it internally for statistical and analytical purposes).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]

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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.

[redacted]

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
- [x] 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 state should play a regulatory role through the establishment of an
independent regulatory body presiding over licensing, research, codes and
policies, complaints, competition.  The State should ensure that information
on media ownership is transparent and readily accessible to the public at no
cost.
Self Regulation should include the disclosure of conflicts of interest in the
covering of news stories, particularly those in the public interest.
```


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```


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

```
The appointments of the governing authorities of the three regulatory bodies
in Ireland are either entirely or a majority of are directly appointed by the
government.  The failure of the regulators to actively monitor for bias and
instead rely on a reactive procedure to complaints.
```

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

```
Regulatory authorities should be equipped with the necessary powers to preside
over licensing, research, codes and policies, complaints,and competition.
They need to be adequately funded independent of ministerial budgetary
discretion.  They should carry out routine monitoring for diversity and bias.
```

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

```
The public service media should play a role by informing the public of issues
of concern and interest and it should be an exemplar of objectivity,
diversity, and fairness.  They should have a publically available policy on
gender and cultural diversity of presenters, guests, commentators and experts.
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9. How should public service media be organised so that they can best ensure the public service mandate?

```
The public service media needs to be diverse and objective, they also need to
work for and with the public on issues of interest and concern. In order to
not dominate the media, a proportion of the license fee should be ring fenced
for investigative journalism and diversity.
```

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.

```
The role of the public service media has oftentimes constrained debate and not
appropriately reported on issues of interest to the public, particularly
around the financial affairs of prominent business people and also
politicians.  There is no consistency in declarations of conflicts of
interests on the public service media.  In Ireland it is common in the public
service media for the presenter of one show to interview the presenter of
another show, further reducing the plurality of voices in media.
```

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.

```
Lack of strong media ownership rules in many EU states have caused problems
around media freedom and pluralism. In Ireland, a reluctance by policymakers
to address media ownership that exceeds the new thresholds retrospectively
has ensured that one individual not only has a control over a significant
share of print and radio but new thresholds implemented by the State have
ensured that no-one else can challenge that concentration of ownership.  There
is also a problem with cross-ownership in Ireland and it is not compulsory for
a conflict of interest to be disclosed in the reporting of news stories or
topics in the public interest.  This is further complicated by the lack of a
requirement in Irish company Law to declare the beneficial owner.
```

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

```
Binding thresholds on percentage share of media ownership. These thresholds
should take account of cross media, region and audience share.  An online
public register outlining individuals or companies who own shares in the
media, what percentage they own, and any conflicts of interests that arise
from having a stake in the media.   The senior management/ directors of the
media companies should also be readily available along with relative voting
weights where these are not equally distributed among shareholders.  Minutes
of the annual general meetings including votes should also be available. This
information should then be updated on a yearly basis and readily accessible by
members of the public on a public database and be in an easy to understand
format.
```

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.

```
The high Concentration of ownership in the hands of one individual has had a
direct impact on the reporting of news.

The failure of Independent News & Media to declare a conflict of interest (its
majority shareholder owns the company installing water meters across Ireland)
in its coverage of the water protests in Ireland and particularly those
reports on water meter installation.

Another more serious example is the failure of media outlets to cover a speech
given under parliamentary privilege that outlined details of an individual
allegedly getting favorable interest rates from a State owned bank or in some
cases the taking down of articles on the same speech as a result of legal
threats from the individual named.  The same individual owns the largest
concentration of media in Ireland.  It has also been disclosed that the same
individual  hired a spy, Mark Hollingsworth to pose as a journalist and to
gather as much information as possible from politicians and other journalists
as to information they had on the case raised in the parliament and to who
their sources were.

The same individual has threatened to sue or sued 17 journalists since 1998.
Concerns on this were raised by Transparency Ireland at the UN in 2012.

In relation to best practice we believe that the Irish State must address the
concentration of media ownership retrospectively so as to ensure media
plurality in Ireland.  It is within the common good and for the benefit of
democracy that any individual exceeding the thresholds currently in Ireland be
obliged to divest  any excess shares over that threshold.
It is also essential that the thresholds going forward are binding and not
just guidelines.
```

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.

```
Binding Limits on percentage of media ownership taking account of audience
share, cross media ownership and region.  Equip and require the regulatory
authorities to actively monitor for bias, accuracy and diversity.,
Require media outlets to have a publically disclosed editorial ethos which
includes conflict  of interest disclosures.

Ensure that State advertising spend is readily available to the public in one
accessible database and is updated annually.
```

C. Journalists and new media players

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

```
Difficulty sourcing quality journalism, investigative journalism, or
dissenting voices in media. Essentially the profession becomes a bastion of
the status quo with the same opinions and views and little challenge.
```

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.

```
The failure of the State to address the current libel/defamation laws and
ensure they are fit for purpose has had a limiting effect and generally
favours individuals and companies with access to large funds. It also permits
bodies corporate to sue for defamation. The inclusion of blasphemy should also
be removed.

The legislation relating to accessing journalists phone records and the
tapping of journalists phones needs greater division of powers.  Its is
currently too easy for Gardaí (Irish Police) to gain access to journalists
phones thereby jeopardising their sources and/or whistleblowers.
```

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

```
The clear division of powers between the arms of the law.  At the very
minimum, a judge should be required to sign off on the accessing of
Journalist's phones by the police.
```

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.

```
This year it has come to light that the Garda Ombudsman Commission tapped the
phones of a number of journalists.  Under Irish Law the Minister for Justice
is supposed to authorize this interception of phones by the police but it
appears the same oversight does not apply for the Ombudsman. She currently
denies having authorized it and has commissioned a review of the current
legislation.
```

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

```
Yes, in particular through faceless social media profiles and through
anonymous letters. More sinister threats come in the form of litigation taken
by individuals who wish to curtail free speech or intimidate journalists, this
is more of a problem than abuse on social media as it has an extremely
shocking, direct, and negative effect, thus curtailing 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.

```
The retraction of articles under threat of legal action and in some cases the
complete failure to cover a speech given under parliamentary privilege that
named the same individual issuing the legal threats as having allegedly
benefitted from getting favorable interest rates from a State owned bank  The
same individual named owns the largest concentration of media in Ireland.  It
has also been disclosed that the same individual  hired a spy, Mark
Hollingsworth to pose as a journalist and to gather as much information as
possible from politicians and other journalists as to information they had on
the case raised in the parliament and to who their sources were.

The same individual has threatened to sue or sued 17 journalists since 1998.
Concerns on this were raised by Transparency Ireland at the UN in 2012.

Gemma O'Doherty, an investigative journalist was dismissed by her editor at
the Independent Newspaper for trying to report on a story of failure to issue
penalty points to the Garda Commissioner. She later successfully appealed her
dismissal.
```

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.

```
Yes, in Ireland in the past the police were alleged to have monitored phone
calls and threatening reporters with arrest in attempt to reveal sources. More
seriously, under the draconian 2005 Garda Siochana Act an application to a
senior Garda officer about alleged 'unlawful disclosure' allows for permission
to be granted for the police to access journalists' phone records.  The
current minister for justice has set up a review of this legislation but has
ruled out legislative change in the short term.

There has also been examples of attempts at discrediting Garda Whistleblowers
such as Garda Maurice McCabe by their superiors.
```

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

```
Tapping of a journalists phone must at the very minimum be sanctioned by a
High Court Judge after a careful appraisal of the evidence justifying such a
measure.
```

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?

```
Funding of investigative journalism is costly and with the changing media
landscape many publications do not have the resources to invest in
investigative journalism.  This is further undermined by search engines and
social media platforms sharing news stories while making no contribution to
the production of the news story.
```

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.

```
It is becoming clear that there is an over reliance on opinion pieces and
journalists are relying on press statements with a cut and paste mentality
becoming prevalent.
```

30. Please indicate any best practice facilitating investigative journalism

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I believe that there should be ringfenced funding for investigative
journalism.  This funding should be independently allocated without any
political interference.  One such method for funding is through national
lottery funds as is the case in some EU Member States.  I also believe that
the possibility of a levy on search engines should be considered or failing
that, the establishment of a public service search engine.
```

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?

```
Hate speech will exist in some way shape or form at all times, however, we can
try and counter it through fostering a culture of communication and
strengthening counter speech. Hate speech needs to again become vilified in
the mainstream and by people from all political, cultural, and social
backgrounds. There also needs to be stronger support from civil society
organisations. Social media platforms need to patrol hate speech much more
sternly as well.

I do believe, however, that there shouldn't be an overreach by government here
in an effort to police how people feel, hate after all is an emotion. There is
a danger in the hate speech debate that angry speech, or general criticisms,
will be swept up in the clampdown on hate speech.

One way to counteract hate speech or xenophobia is through greater diversity
of voices in the media which will bring with them different perspectives.

Online Media Outlets should have better oversight over their comments section.
While not wanting to stifle public debate and contrary opinions, at the very
minimum there should be some means of identifying or attributing comments to
an individual.  The complete anonymity of some online comment sections has
allowed individuals to have multiple accounts and to fill comments sections
with hate speech.
```

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.

Freedom of the Press and the right to access information are enshrined in the Charter of Fundamental rights and are the pillars of any healthy functioning democracy. It is the role of the media to frame the public debate and if that media is concentrated in the hands of a small number of individuals or if there is a lack of diverse voices, that debate will become narrow and insular. It is in all citizens interests that an open pluralistic robust media is fostered.

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	○	○	○	◉	○	○	○	○
Friends	○	○	○	◉	○	○	○	○
School	◉	○	○	○	○	○	○	○
Public authorities	○	◉	○	○	○	○	○	○
Media, including online providers	○	○	◉	○	○	○	○	○
Dedicated learning systems using e.g. radio, TV, mobile phones and the internet (please specify)	○	○	◉	○	○	○	○	○
Civil society	◉	○	○	○	○	○	○	○
Other (please specify)	○	○	○	○	○	○	○	○

Other - please specify

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

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)?

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)?

An informed political debate is fostered through a plurality of voices. It is important that media and particularly the public broadcaster ensure that there is broad range of commentators and experts representative and reflective of the society it operates in.

Citizens should be able to hear their voices being represented in the political debate.

It is also essential that any conflicts of interest are declared in the coverage of a new story so as to prevent seeds of doubt regarding bias take hold and undermine the standing of the media in the public view.

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.

Social Media is a useful tool for getting a message out especially when the more traditional media is not accessible to that individual or political party politician either through bias or otherwise.
It also facilitates the use of visual content in the form of pictures and videos when access to tv is not available.

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.

```
There is the risk that social media can become a vacuum to dissenting voices
as followers/friends etc are most likely to come from a similar
perspective/ideology.  Algorithms are increasingly filtering out contrasting
views and opinions.

Social Media Platforms should be more transparent on how their algorithms work
and also monitor for hate speech more effectively.
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Contact

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