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)

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 (NB — your contribution will not be published, but the Commission may use it internally for statistical and analytical purposes).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

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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.

VPRT, Verband Privater Rundfunk und Telemedien e.V.

Is your organisation included in the Transparency Register?

- (●) Yes
- ( ) No

If yes, please indicate your Register ID-number

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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
- [x] 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?

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The State has to grant fair competition including a sound State Aid Policy. In
Germany media concentration is regulated in the Inter-State-Treaty on
Broadcasting.
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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?

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In Germany the Media Authorities (Landesmedienanstalten and Kommission zur
Ermittlung der Konzentration im Medienbereich, KEK) in charge of commercial
broadcasting are independent. Public service broadcasters are controlled by
internal control bodies. Regarding the protection of minors or advertising the
latter rarely sanction any infingement.
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7. What competences would media regulatory authorities need in order to ensure a sufficient level of media freedom and pluralism?

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In Germany the media concentration law and competition law hindered the
establishment of platforms for audiovisual media content (Amazonas/Germany´s
Gold). Companies from outside Germany or Europe do not face similar
restrictions. This contradicts the objective of building European champions in
this field.
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8. What should be the role of public service media for ensuring media pluralism?

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Public Service Broadcasters (psbs) have a dominant market share in many Member
States. This causes problems for their commercial competitors, especially in
the online environment. The remit of psbs has to be clearly defined. Obvious
commercial activities should not be part of this remit. Psbs´activities must
not distort competition.It also seems appropriate to remind psbs that their
remit is a purely national one and clearly not pan-European.
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9. How should public service media be organised so that they can best ensure the public service mandate?

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The psbs remit must be clearly defined. The 2009 Broadcasting Communication
must be applied more effectively, especially with regard to new services. The
market assessment for new services is crucial.
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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.

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The expansion of public service broadcasters is a problem.
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12. Please indicate any best practice on how to ensure an appropriate level of transparency and plurality of ownership in this area.

```
Although not perfect, the European Media Pluralism Monitor can help in
assessing the state of media pluralism in Member States. In Germany the system
of competition law and media concentration law is very restrictive. Please
find more details in the VPRT position (in German) submitted to the
Bund-Länder-Kommission:
http://www.vprt.de/verband/positionen/content/vprt-nimmt-stellung-zu-kartellre
cht-und-vielfaltssicherung?c=4  as well as the submission regarding platforms:
http://www.vprt.de/verband/positionen/content/vprt-reicht-stellungnahme-zur-pl
attformregulierung-ein?c=4 .
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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.

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.

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VPRT is not aware of any biased programming in commercial radio, TV and
audio/audiovisual media services.
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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.

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The general data protection regulation which entered into force in Mai 2016
provides exceptions for journalistic content. As this regulation applies
directly and the exceptions still have to be transposed into national law,
there is a risk that public authorities might infringe the fundamental right
of freedom of expression.
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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?

```
There is a need of transposing the exceptions for freedom of speech provided
in the general data protection regulation: The sources of the investigative
journalist have to be kept secret.  On the other hand journalists must be able
to report on persons without being sued on the basis of data protection law.
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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?

```
The recently published proposal for a revised AVMS directive deals with this
topic for the audiovisual sector. It is also tackled by Member States in their
criminal, media and administrative laws.Please, find the VPRT Position to the
AVMS Revision
here:http://www.vprt.de/verband/positionen/content/vprt-nimmt-stellung-zur-med
ienkonvergenz-%E2%80%9Erevision-der-audiovisuellen-med?c=4 .
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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.

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Free and pluralistic media are the cornerstone of democracy. European and
national competition law as well as national media concentration law have to
be adapted to market developments. The legal environment must reflect new
market players enabling also German and European media companies to grow (see
VPRT position for the Bund-Länder-Kommission).
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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.

VPRT members are active in improving media literacy. They take part in the MediaSmart project on media literacy (www.mediasmart.de) as well in FragFinn.de (www.fragfinn.de) and www.sicher-online-gehen.de.

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)?

```
Commercial audio- and audiovisual media services need a favourable legal
environment allowing for a sound funding, meaning: less advertising
restrictions and fair competition with public service broadcasters and (non
European) platforms.
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38. Which measures would you consider useful to improve access to political information across borders? Please indicate any best practice.

```
For radio, VPRT supports the follow-up programme of EURANET, helping in
funding and exchanging programmes about the EU and other Member States.
Regarding copy right, VPRT sees a high risk for media pluralism should the
satellite and cable directive be applied to online and/or European wide access
to audiovisual media services enforced via passive sales or a ban on
geoblocking.
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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.

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Radio and TV journalists are important to give a full and impartial picture of
the democratic debate. This is not ensured by social media.
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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.

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VPRT would like to refer to the submission to the European Commission
consultation on platforms and intermediaries:
http://www.vprt.de/verband/positionen/content/vprt-nimmt-stellung-zu-plattform
en-und-intermediären .
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